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Law School Deans and Distance Education: A Phenomenographical Study

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Law School Deans and Distance Education: A Phenomenographical Study

By
Edward Oswald

An Applied Dissertation Submitted to the
Abraham S. Fischler College of Education
in Partial Fulfillment of the Requirements
for the Degree of Doctor of Education

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Approval Page

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Statement of Original Work

I declare the following:

I have read the Code of Student Conduct and Academic Responsibility as described in the *Student Handbook* of Nova Southeastern University. This applied dissertation represents my original work, except where I have acknowledged the ideas, words, or material of other authors.

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Edward Oswald
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March 14, 2017
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Abstract

Law School Deans and Distance Education: A Phenomenographical Study. Edward Oswald, 2017: Applied Dissertation, Nova Southeastern University, Abraham S. Fischler College of Education. Keywords: phenomenography, distance education, distance learning, law schools, legal education, Rogers attributes theory

This applied dissertation was designed to determine the variations in law school deans' conceptions of distance education (DE) as an educational model within the American Bar Association (ABA) accredited law school. Currently, not a single ABA-accredited law school offers a plan of study for completion of a Juris Doctor (JD) degree utilizing the DE educational model. The law school dean is an essential opinion leader providing leadership for all stakeholders of the law school. Gaining a better understanding of law school deans' perceptions towards DE is critical if DE is to become an accepted educational model in ABA-accredited legal education. Nineteen deans of ABA-accredited law schools from every region of the country were interviewed.

The phenomenographic qualitative approach was utilized in the study, which seeks to explain variation in understanding a phenomenon among a set of participants. In phenomenographic research, all interviews are transcribed verbatim, and the transcripts became the central focal point of analysis in the investigation. The participants were treated as a group, and the goal of the data analysis was to identify variations in the phenomenon across the group, not between individual participants in the group.

The construction approach was used to develop the categories of description. As a theoretical framework, Rogers's perceived attributes theory was used to develop the categories of description in the analysis of the verbatim transcripts. The findings indicated that the variation in conceptions of ABA-accredited law school deans towards DE could be determined by the 5 constructs of Rogers's perceived attributes theory: relative advantage, compatibility, complexity, trialability, and observability.

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Chapter 1: Introduction

Statement of the Problem

Since the beginning of the new millennium, distance education (DE) has seen a significant increase as an educational model. This increase has been evidenced by the data collected each year by Allen, Seaman, Poulin, and Straut (2016) in their annual survey report on DE. The report, initially funded by the Alfred P. Sloan Foundation, began tracking DE in 2002.

Allen et al. (2016) reported that 63.3% of academic officers in 2015 regarded DE as an essential element in the long-term plans of their respective organizations, as compared to 48.8% in 2002. In 2015, 77.1% of academic officers at colleges and universities with DE courses and programs continued to assert the indispensable role of DE in their institution's future. The proportion of academic officers who felt that DE is equal to face-to-face education increased from 57.2% in 2003 to 71.4% in 2015 (Allen et al., 2016). Although the growth rate of students enrolling in at least one online course dropped from previous years, it increased 3.9% in 2015, compared to an increase of 3.7% in 2014, and this increase was still higher than students enrolling in only the face-to-face classroom model (Allen et al., 2016). As of 2014, the most current data available, enrollment in DE courses was the greatest in public colleges and universities compared to private colleges and universities, with 72.7% of all lower level and 38.7% of all upper level students enrolled in at least one DE course (Allen et al., 2016).

As highlighted by Poulin and Straut (2016), DE has become a normal part of the postsecondary experience. As of 2014, 1 in 4 college students took at least one DE course. In addition, 1 in 7 college students was learning solely through distance learning

courses and programs. As for the growth in the DE model, Poulin and Straut reported, the growth in exclusive DE enrollments during Fall 2012 to Fall 2014 was 9%, including public and private sectors. Poulin and Straut also reported that the highest growth in exclusive distance learning experiences from 2012 to 2014 was 33% in private, nonprofit higher education DE enrollments, followed by public colleges and universities with 12% growth in DE enrollments. As of 2014, the percentage of U.S. graduate students enrolled in at least one DE graduate class was 33%. Further, approximately 25% of the total number of students enrolled in graduate programs were enrolled in only DE classes (National Center for Education Statistics, 2016).

Since the 1990s with the development of the Internet, the DE model has become an increasingly used educational model. Its expanded use has been driven by unceasing changes in technology, which continue to deliver better and more effective instruction (Mulholland & Tornsauer, 2014). The characteristics of the current DE model include “online courses with multiple new delivery and instructional methods (e.g., web-based live meetings, virtual office hours, student blogs)” (Mulholland & Tornsauer, 2014, p. 12). In addition, DE has provided a mechanism for nontraditional students, such as those working full time with commitments and families, those in isolated rural parts of the country, those serving as full-time military, and exceptional education students, the capability to pursue a postsecondary education, in many cases for the first time (Renes & Strange, 2011).

However, the lack of acceptance of the DE model in American law schools is a growing issue. The American Bar Association (ABA) has not accredited any DE programs leading to a Juris Doctor (JD) law degree in ABA-accredited law schools. The

inability for a person to earn a law degree through the DE model in an ABA-accredited law school presents significant problems for the legal education profession as the model becomes accepted and extensively used in other professions as a means of providing an education. Van Detta (2015) stated,

As for the most tradition-bound of disciplines, the law has lagged behind other disciplines in making use of the most powerfully democratizing force in the history of education. Resistance has emanated largely from uninformed stereotypes of online education [DE] among many in the legal academia that have never sought to immerse themselves into a radically new student-centered pedagogy. Slowly, but inexorably, the world of legal education . . . is being confronted with the reality that new generations of learners are coming to the study of law with the expectation of increasing emphasis on the use of online education as a—and one day, the—primary delivery medium. (pp. 143-144)

Since 1923, the ABA has published standards to regulate law schools. Since the beginning of the association, the ABA has been the gatekeeper for law school standards within the United States, resulting in a legal education construct of uniformity across the country (Morgan, 2011). Today, almost every American state requires law students to graduate from an ABA-accredited law school as a precondition to sit for examination for admission to the bar (Silver, 2014). As reported by Moeser and Huismann (2015), only California allows graduates from completely online programs, not accredited by the ABA, to sit for the bar examination without prerequisites. In addition, students who seek admission to practice law in a state without taking the bar exam may do so by filing an admission on motion. Moeser and Huismann reported that 32 states require law students

who file an admission on motion to be graduates of ABA-accredited law schools.

Phenomenon of Interest

At the center of the discussion concerning DE programs in American law schools stands the law school dean. The role of the American law school dean is unique compared to deans of other schools and colleges within the university. As Fitts (2010) noted, because law schools lack the personnel found in other departments, such as department chairs, graduate assistants, and other nonteaching staff, the law school dean is very much involved in day-to-day operations of the law school. The lack of an administrative hierarchy found in other schools and colleges of the university promotes an environment in which all the stakeholders, including faculty, staff, students, and associate deans, assume they have direct access to the dean, and all look to the dean for leadership (Fitts, 2010). Alexander (2015) stated,

The law school dean is a key player in the effort to reshape legal education. . . .

The dean is the person who most often sets the direction of a law school and who serves as the head cheerleader, steering all of a school's constituencies in one direction. (para. 20)

Identifying and understanding law school deans' conceptions towards DE are essential if DE is to become an accepted educational model in legal education.

Deficiencies in the Evidence

An extensive literature search was conducted for the study. In the general education areas, searches included the following databases: ERIC-ProQuest, Education Source-EBSCOhost, and ProQuest Dissertations and Theses database. The preliminary search used the terms *distance education*, *distance learning*, *online*, *course*, *online*

education, elearning, e-learning, virtual class, or virtual school in the abstract and citation. The initial search determined that the terms *distance education, virtual school,* and *online course* were key subject descriptors. A second search was done using the terms *law school, law student, or legal education* in the abstract and citation. This search determined that those terms were also key descriptors.

When the first set of terms and the second set of terms were combined, one study matched the DE model and its use in the legal education field. Jaworowski (2013) conducted a qualitative multiple case study of three law professors teaching DE courses leading to a JD degree in an ABA-accredited law school. The conceptual framework used by Jaworowski focused on whether the three professors were early adopters or innovators, utilizing the framework of Rogers's diffusion theory. Jaworowski's findings included classifying all three professors as innovators. Jaworowski also noted that the three professors indicated positive support by administrative staff for creating and teaching the DE JD courses.

The search strategy was repeated in the legal databases, specifically HeinOnline and LexisNexis Academic Legal. Several scholarly legal studies were found that focused on various aspects of the role and place of the DE model in legal education, including barriers, advantages, examples of DE courses and programs utilized in legal education, and the development of non-ABA-accredited online law schools. However, none of the articles focused on the perceptions and attitudes of the law school dean in the acceptance of the DE model in the legal education field.

Audience

Several groups may benefit from this study. They include the myriad of interests

the law school dean must deal with in a typical workday, such as students, both current and potential; alumni; law school faculty; and working professionals in the legal community. In addition, the study was intended to provide a baseline discussion of the appropriateness and potential obstacles of the implementation of the DE model leading to a JD degree in legal education.

Definition of Key Terms

American Bar Association (ABA). The ABA is the professional association of practicing attorneys in the United States. It is recognized by the U.S. Department of Education as the only agency authorized to accredit law schools within the United States (Cahak, 2012).

Asynchronous. The asynchronous method of DE has been defined as allowing learners to “choose when and where to learn and when and where to access instructional materials” (Simonson, Smaldino, & Zvacek, 2015, p. 10). In addition, it can include “methods for students to interact among themselves and with the professors, through active discussion boards, wikis, and other online technologies” (Pistone, 2015, p. 595).

Blended or hybrid. The blended or hybrid DE course has been defined as a “course that blends online and face-to-face delivery. Substantial proportion of the content is delivered online, typically uses online discussions, and typically has a reduced number of face-to-face meetings” (Allen et al., 2016, p. 7).

Categories of description. In phenomenography, such categories are defined as the “number of qualitatively different meanings or ways of experiencing the phenomenon” (Akerlind, 2012, p. 116).

Conceptions. In phenomenography, according to Marton and Pong (2005),

A conception can be characterised as composed of both a referential aspect—i.e., a particular meaning of an individual object (anything delimited and attended to by subjects)—and a structural aspect—i.e., the combination of features discerned and focused upon by the subject. (p. 336)

Distance education (DE). According to the ABA (2015), in a DE course, students and faculty are physically separate for more than one third of the instruction and “the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously” (p. 19).

Distance learning. According to Schlosser and Simonson (2010), distance learning is

a term for the physical separation of teachers and learners that has become popular in recent years, particularly in the United States. While used interchangeably with distance education, distance learning puts the emphasis on the learner and is especially appropriate when students take on greater responsibility for their learning as is frequently the case when doing so from a distance. (p. 130)

Electronic learning (e-learning). E-learning has been defined as “learning that is delivered, enabled or mediated using electronic technology for the explicit purpose of training, learning or development in organisations” (Alghafri, 2015, p. 52). It can be provided through “remote locations via synchronous or asynchronous means of instruction, including written correspondence, text, graphics, audio or video tape, CD-ROM, online learning, videoconferencing interactive TV, facsimile, and the World Wide

Web” (Alghafri, 2015, p. 52). It is comprised of three dimensions: formal e-learning, informal e-learning, and blended e-learning (Alghafri, 2015). E-learning is often referred to as DE.

Juris Doctor (JD) degree. According to Martinez (2015), a JD degree is conferred after 3 years of law school study and passage of the bar examination in a jurisdiction. Martinez noted, “In most of those jurisdictions, the law degree must be obtained from an institution accredited by the ABA in order to sit for the bar exam, or else the applicant may have to satisfy additional requirements” (p. 291).

Learning management system. A learning management system provides advanced e-learning applications “used for distance-learning and as a supplement to in-class lectures, on which course announcements, homework assignments, lecture notes and slides can be posted, for Internet access” (Benta, Bologna, Dzitac, & Dzitac, 2015, p. 1367). The system contains a number of components, including course and class management, content management, communication tools, student tools, and assessment tools (Benta et al., 2015).

Online education. Online education has been defined as “a form of distance education where 100% of the instruction and interaction taking place between students and faculty is conducted in either a synchronous or an asynchronous manner via the Internet” (Porter, 2015, p. 1).

Online learning. Online learning is often referred to as DE. As noted by Means, Toyama, Murphy, Bakia, and Jones (2009),

Online learning has become popular because of its potential for providing more flexible *access to content and instruction at any time, from any place*. Frequently,

the focus entails (a) increasing the availability of learning experiences for learners who cannot or choose not to attend traditional face-to-face offerings, (b) assembling and disseminating instructional content more cost-efficiently, or (c) enabling instructors to handle more students while maintaining learning outcome quality that is equivalent to that of comparable face-to-face instruction. (p. 1)

Outcome space. In phenomenography, outcome space “is a picture (in either prose or graphic form) of the categories and their relation to each other” (Akerlind, Bowden, & Green, 2005, p. 95). In addition, “in practice, most outcome spaces show some form of hierarchical relationships among categories” (Akerlind et al., 2005, p. 95).

Synchronous. Synchronous learning is when “all participants in the course including all students and the teacher, participate in the course at the same time, albeit from different locations” (Pistone, 2015, p. 593). The technologies used to facilitate the live sessions include webcasting, fiber-optic systems, satellite, compressed video, and web-based video systems (Simonson et al., 2015).

Purpose of the Study

The purpose of this study was to discover and explore law school deans’ conceptions towards DE. At this stage in the research, law schools deans’ conceptions are defined as their ways of conceptualizing, experiencing, seeing, apprehending, and understanding (Marton & Pong, 2005) DE as an educational model within the law school.

Chapter Summary

The DE education model is rapidly expanding in higher education. Yet, the model remains unavailable to ABA-accredited law school students seeking a law degree, which is a growing problem within the legal education community. A key opinion maker and

decision maker within the law school is the law school dean. By seeking to understand law school deans' conceptions towards DE, the study adds to the limited number of empirical based studies on DE in the American law school. Findings may help university administrators, law school personnel, law school faculty, and other opinion leaders gain a better understanding of the acceptance or resistance to the DE model in the American law school at a time of widespread acceptance of the DE model in most other academic areas in postsecondary institutions. A review of the literature for the study is delineated in Chapter 2. Chapter 3 elucidates the phenomenographical design and methodology used in the study. Key findings are examined in Chapter 4. Chapter 5 provides an overview of the study, qualitative methods used, and conclusions and recommendations.

Chapter 2: Literature Review

As computer-based technologies rapidly change how students access educational programs, a fundamental change in educational institutions' attitudes at all levels, especially postsecondary, has taken place towards DE (Amirault, 2012). DE has become an accepted, critical educational model for higher educational institutions. This was illustrated in Allen et al.'s (2016) survey report tracking U.S. online education, which found the percentage of academic leaders who indicated that DE was essential to the strategic plan of their institutions increased to 63.3% in 2015, compared to 48.8% in 2002. Yet, many academic leaders face challenges in the migration to DE. As noted by Amirault (2012), "The transition these institutions must undergo to adapt to online program delivery involves many complex issues, some with ramifications that are not yet fully understood" (p. 253).

One of the key programs within postsecondary academic institutions facing questions in the adoption of DE is the American law school. Determining the variation of conceptions of law school deans, key leaders in the law school, towards DE was the aim of this study. This chapter discusses theoretical perspectives that guided the study, a brief history of the growth of DE, a brief history of the American law school, barriers to implementation of a DE learning model in American law schools, and rationales for implementation of a DE model in American law schools.

Theoretical Frameworks

Phenomenographical method. The epistemological underpinnings of the phenomenographic research methodology provided the theoretical framework to guide the study. Marton (1994) defined phenomenography as "the empirical study of the

differing ways in which people experience, perceive, apprehend, understand or conceptualize various phenomena in and aspects of the world around them” (p. 4425).

The qualitative phenomenographical approach has several constructs that could provide a unique perspective in the variation of law school deans’ views towards DE. Together these constructs make the phenomenographical genre a robust tool in qualitative analysis. Cope (2004) stated that constructs taken in totality provide a “coherent, distinct, qualitative research paradigm” (p. 7). The first construct of phenomenography is an attempt to identify a limited number of variation categories, called categories of description, in the experiences or awareness of the phenomena (Akerlind, 2012). The categories of description are analyzed to determine if they can be correlated into a tiered, related basis, called the outcome space of the study (Akerlind, 2005c). Three key benchmarks for determining the quality of the variation categories and outcome space were elucidated by Marton and Booth (1997):

- Individual categories should stand in relation to the phenomenon of the investigation so that each category tells us something distinct about a particular way of experiencing the phenomenon.
- Categories have to stand in a logical relationship with one another, a relationship that is frequently hierarchical.
- The system should be parsimonious . . . with as few categories as is feasible and reasonable to capture the critical variation. (p. 125)

The endeavor to determine variations in how people see or experience a phenomenon is the heart of the phenomenographical approach. Dunkin (2000) noted, “The similarities and differences between the ways people experience or see a

phenomenon are the critical points of interest” (p. 139) in the phenomenographic research approach.

The second construct of the phenomenographical methodology is analysis of the phenomenon from the viewpoint of the respondent, which is called second-order perception (Ashworth & Lucas, 1998; Trigwell, 2000). Patrick (2000) stated phenomenographic categories result from a second-order analysis and thus represent a phenomenon, rather than individuals. Utilizing this perspective, the goal is to see how people perceive the world and not how the researcher perceives the world (Pang, 2003).

Richardson (1999) highlighted a third construct of the phenomenographical approach. This construct emphasizes not only the immediate experience but also the conceptual understanding of the phenomenon by the participants in the research. This approach is unlike the phenomenological approach, which focuses on only the immediate experience. Marton (1986) stated,

Phenomenographers do not make use of this distinction, at least not as a starting point in research. We try instead to describe relations between the individual and various aspects of the world around them, regardless of whether those relationships are manifested in the forms of immediate experience, conceptual thought, or physical behavior. (pp. 41-42)

A fourth construct within the phenomenographical paradigm is its nondualist postulation when describing human reality. Marton (2000) noted,

From a non-dualistic ontological perspective there are not two worlds: a real, objective world, on the one hand, and a subjective world of mental representations, on the other. There is only one world, a really existing world,

which is experienced and understood in different ways by human beings. It is simultaneously objective and subjective. An experience is a relationship between object and subject, encompassing both. The experience is as much an aspect of the object as it is of the subject. (p. 105)

A fifth construct is the postulation that although people's experiences with the phenomenon vary, these variations form a collective whole in people's perceptions of the phenomenon under analysis. Akerlind (2012) stated that one of the strengths of phenomenography is providing a "way of looking at collective human experience of phenomena holistically, despite the fact that same phenomena may be perceived differently by different people and under different circumstances" (p. 116). The intent of this construct is to treat the sample group as a whole, trying to discover the array of variations of the phenomenon under investigation across the sample group, as opposed to focusing on one individual in the sample (Akerlind, 2012).

Ornek (2008) described the aim of the phenomenographic paradigm as focusing on the experience of the phenomenon as the object of investigation. As reflected by Sharma, Stewart, and Prosser (2004), the intent of the phenomenographic research methodology is to avoid predetermined conclusions and let the data establish emergent conceptions. The methodology considers the phenomenon and individual as nondualistic, which is defined as one and the same. This results in the approach utilizing a second-order viewpoint, which seeks not to study the phenomenon but the experience of the phenomenon by individuals (Ornek, 2008). The outcome of this experience would be described by the collective variation of the individuals in experiencing the phenomenon (Linder & Marshall, 2003). In addition to collective variation in experience of the

phenomenon, Tight (2015) noted, “Phenomenographers operate with the underlying assumptions that, for any given phenomenon of interest, there are only a limited number of ways of perceiving, understanding, or experiencing it” (p. 2). The variations in understanding the phenomenon can be organized in an interrelated hierarchical relationship, arranged from highest understanding of the phenomenon to the lowest experience of the phenomenon (Tight, 2015). Variations include “ways of understanding [that] have both ‘what’ and ‘how’ aspects” (Carlsson, Carlsson, Prenkert, & Svantesson, 2016, p. 52).

Diffusion of innovations (DoI) theory. A second theoretical framework to guide the study was the DoI theory, which is used to explain why innovations may or may not be adopted. Rogers (2003) defined diffusion as “the process in which an innovation is communicated through certain channels over time among the members of a social system” (p. 5) and innovation as an “idea, practice, or project that is perceived as new by an individual or other unit of adoption” (p. 12). In Rogers’s definition of innovation, the newness of the innovation is to the individual or unit and not necessarily the innovation itself (Campbell, 2015). Because of the preponderance of diffusion research with technological innovations, Rogers considered innovations and technology interchangeably. As noted by Rogers, “A technology is a design for instrumental action that reduces the uncertainty in the cause-effect relationships involved in achieving a desired outcome” (p. 13).

As reflected by Sahin (2006), the DoI theory has become widely accepted as a theoretical perspective in an array of disciplines, including public health, communications, history, economics, education, political science, and technology, for

studying why processes are adopted or rejected in social systems and groups. As for the appropriateness of using DoI as a theoretical lens in higher education research, Goadrich (2016) noted, “This social aspect allows for more direct insight into the complex relationships and influences [of] technological innovation within the hierarchy of personnel on a college campus” (p. 15).

The beginnings of modern diffusion research are generally attributed to the research in the 1940s by Bruce Ryan and Neal Gross in the rapid diffusion of a hybrid corn seed among Iowa farmers (Valente & Rogers, 1995). Social theorist Everett Rogers, beginning with his dissertation on diffusion research in 1955, developed the DoI theory, and it has dominated diffusion theory research since (Singhal, 2012). Yates (2001) suggested that Rogers’s DoI theory is not single theory but a metatheory, as it contains five separate theoretical lenses for analyzing diffusion of an innovation. Taken together, these separate theoretical lenses formed a framework of subtheories for looking at diffusion (Hubbard & Sandmann, 2007). The components or subtheories of Rogers’s (2003) DoI theory include the theory of innovation-decision, the theory of personal innovativeness, perceived attributes theory, rate of adoption theory, and theory of communication channels.

Rogers’s (2003) subtheory of the perceived attributes of innovations provided a theoretical lens in the current study. It guided the study to determine if law school deans’ variation in perceptions of DE correlated to the different characteristics in the perceived attributes theory. As reflected in Rogers’s perceived attributes theory, five characteristics in an individual’s perception of an innovation can be ascertained. Rogers indicated, “Individuals’ perceptions of these characteristics predict the rate of adoption of

innovations” (p. 219). Rogers defined rate of adoption as “the relative speed with which an innovation is adopted by members of a social system” (p. 221). The perceived attributes are critical indicators for the rate of adoption (Sahin, 2006). Rogers stated, “The perceived attributes of an innovation are one important explanation of the rate of adoption of an innovation” (p. 221). Rogers titled these different characteristics within the perceived attributes of innovation theory as relative advantage, compatibility, complexity, trialability, and observability.

Relative advantage. Rogers (2003) defined relative advantage as “the degree to which an innovation is perceived as better than the idea it supersedes” (p. 15). Relative advantage can be gauged in terms of easiness, satisfaction, social status, and economic factors (Perkins, 2011). Rogers argued that relative advantage was the most important attribute in the widespread adoption of an innovation. “The greater the perceived relative advantage of an innovation, the more rapid its rate of adoption will be” (Rogers, 2003, p. 15).

Compatibility. As defined by Rogers (2003), compatibility is “the degree to which an innovation is perceived as consistent with the existing values, past experiences, and needs of potential adopters” (p. 15). Compatibility is positively correlated to the innovation (Sahin, 2006). The breadth of compatibility is based on the interrelationships between articulated needs, erstwhile needs, and current views and ideals (Perkins, 2011).

Complexity. Rogers (2003) stated that complexity “is the degree to which an innovation is perceived as relatively difficult to understand and use. Some innovations are readily comprehended by most members of a social system; others are more complicated and are adopted more slowly” (p. 15). As indicated by Rogers, this

characteristic is adversely related to adoption of an innovation; the more complex an innovation, the less likely it is to be adopted. The complexity of an innovation is a barrier to its adoption (Sahin, 2006).

Trialability. Rogers (2003) defined trialability as “the degree to which an innovation may be experimented with on a limited basis” (p. 16). Rogers stated that trialability is also positively correlated to the innovation. The more times an innovation is used on a trial basis, the quicker will be its adoption (Sahin, 2006). As noted by Rogers, “New ideas that can be tried on the installment plan are generally adopted more rapidly than innovations that are not divisible” (p. 257). Trials also provided potential adopters with the ability to see how the innovation would function in their specific environment (Perkins, 2011).

Observability. Rogers (2003) described observability as “the degree to which the results of an innovation are visible to others. The easier it is for individuals to see the results of an innovation, the more likely they are to adopt” (p. 16). Observability leads to a positive rate of adoption to an innovation (Sahin, 2006).

History of Phenomenography

Phenomenography began as a qualitative approach to study variation in student learning in the early 1970s at the University of Göteborg in Sweden under the direction of Ference Marton, known of as the father of phenomenography (Eisen, 2013). Its foundation is an empirical approach to research based on variation in students’ conceptions to outcomes in learning (Limberg, 2008). As highlighted by Khan (2014), the phenomenographical method has developed along three areas of inquiry. The first area of inquiry seeks to discover broad features of variation in learning. The second area

of inquiry centers on researching variation of learning in content areas. The third area of inquiry focuses on what is often called “pure” phenomenographic research that “concentrates on people experiencing or understanding different feature of their reality, not in subjects studied in education, but in their daily lives“ (Khan, 2014, p. 35).

Since its beginnings in the early 1970s, the phenomenographic research methodology as an educational research tool, especially in postsecondary education, has spread around the world, primarily in Australia, Great Britain, Sweden, East Asia, and Hong Kong (Akerlind, 2014; Limberg, 2008; Tight, 2015). Since the late 1980s, many qualitative studies using the phenomenographic approach have been conducted in the educational field. These studies have focused on phenomenographic inquiry as it relates to variation in student learning and variation in content learning (Limberg, 2008).

In addition, pure phenomenographic research has expanded into various noneducational fields including business administration, management, health care, information behavior, and information literacy (Carlsson et al., 2016; Limberg, 2008). Appendix A highlights a few of the recent noneducational, phenomenographic, applied dissertations using the pure phenomenographic approach (Bergman, 2015; Duncan, 2014; J. A. Friedman, 2015; Harding, 2013; Linehan, 2014; Sahadath, 2010). The research studies illustrated the strength of the phenomenographic methodology as a qualitative research tool in determining a limited number of variations in conceptions when investigating any phenomenon, no matter the subject or discipline.

Phenomenography is often confused with phenomenology, one of the first established traditions in qualitative research. They are both derived from the paradigm “phenomenon,” defined as “to make manifest” or “to bring to light” (Larsson &

Holmstrom, 2007, p. 55). As attested to by Uljens (1996), there is a correlation between both qualitative methods, since Gestalt psychology, which has its beginnings in phenomenology, forms one of the philosophical foundations of phenomenography.

Table 1 highlights both similarities and differences in both phenomenography and phenomenology. The goal of both qualitative approaches is to determine individual understanding and experience of a phenomenon (Lupson, 2007). However, there are several key differences between each paradigm.

Table 1

Phenomenography and Phenomenology Commonalities and Variances

Area	Phenomenography	Phenomenology
Commonalities	<ul style="list-style-type: none"> • Concept of lifeworld • Intentionality of consciousness • Bracketing of researcher preconceptions • A distinguishable phenomenon of interest • Correlation between the meaning object and the meaning act • A limiting horizon of meaning • The use of data reduction in the analysis phase • Descriptive in nature 	
Variances		
Aim	• Establish qualitatively different ways of experiencing a phenomenon.	• Establish essence of a phenomenon.
Thought and experience	• Conceptual thought and prereflective experience are not distinguished.	• Conceptual thought and prereflective experience are distinguished.
Perspective	• Second order	• First order
Results	• Conceptions of phenomenon	• Identification of meaning units

Note. Adapted from *A Phenomenographic Study of British Civil Servants' Conceptions of Accountability* (doctoral dissertation), p. 97, by J. Lupson, 2007, retrieved from <https://dspace.lib.cranfield.ac.uk/bitstream/1826/1729/1/LUPSONTHESISFINAL%20PhD.pdf>

One difference is that phenomenography is “interested in collective meaning,” whereas phenomenology “is interested in individual experience” (Ornek, 2008, p. 11).

Further, in looking at the phenomenon, phenomenography takes a “second-order perspective in which the world is described as it is understood” as opposed to phenomenology, which “is interested in a first-order perspective in which the world is described as it is” (Ornek, 2008, p. 11). Another differentiation between both is that phenomenography seeks to understand the collective variation in experiencing or understanding a phenomenon, whereas phenomenology seeks to experience the critical essence of the phenomenon (Lupson, 2007).

History of DE

Concepts and ideals underpinning the foundations of DE have a long and rich history, beginning as far back as Colonial times (Saba, 2011). B. Anderson and Simpson (2012) posited that Nipper in 1989 was the first to suggest a broad-based model based on historical generations for looking at the history of modern DE. These generational frameworks or stages were classified as correspondence, educational broadcasting, and computer-mediated stages in the development of DE. Over the years, other researchers have expanded the generational framework model to include additional stages dividing either the broadcast or computer-mediated stages into separate stages based on the development of new technologies (Heydenrych & Prinsloo, 2010).

Moore and Kearsley developed one of the more comprehensive generational models of the history DE in 1996 (Passerini & Granger, 2000). In 2005, the model was expanded to include five generational frameworks or stages, reflecting the rapid advances of technology used in DE: (a) correspondence study, (b) radio and television educational broadcasting, (c) systems approach, (d) teleconferencing, and (e) computer and Internet-based virtual classes (Moore & Kearsley, 2011). There are benefits to examining the

history of DE through generational frameworks. As observed by B. Anderson and Simpson (2012), “A generational framework highlights key developments” (p. 2). Casey (2008) noted that the stages were not mutually exclusive and overlapped with the development of new technologies to deliver DE. In addition, T. Anderson and Dron (2012) argued that, as a new generational framework began, the previous generational framework did not end. Instead, the myriad of options for DE increased and continued to increase over the past decades.

First generation: Correspondence stage. The first generation of DE, based on the use of the printing press and postal services, was correspondence education. It originally grew from a strong sense of social justice to provide educational access to those members of society unable to attend emerging colleges and universities of the 19th century in the United States (B. Anderson & Simpson, 2012).

As delineated by Simonson et al. (2015), the Society to Encourage Studies at Home was considered the first DE program developed in the United States and utilized correspondence materials delivered through the postal service. According to Bergmann (2001), it was founded in 1873 by Anna Eliot Ticknor, who came from a family of educators, including her father, a world-class scholar, Harvard University professor, and founder of the Boston Public Library. The Society to Encourage Studies at Home took a conservative approach to education of women, providing mothers and daughters of middle and upper class families the opportunity to expand educational horizons while staying at home, but emphasized through its approach and name that it was a foundation for formal study. Over 7,000 women are estimated to have enrolled in the program during its existence (Bergmann, 2001).

A second modern correspondence program in the United States was established in 1881 as the Chautauqua Correspondence College. In 1883, it became known as the Chautauqua College of Liberal Arts under the authority of the State of New York. The college was granted permission to offer college degrees by correspondence through the postal service and did so from 1883 to 1891 (Simonson et al., 2015).

A third example of modern correspondence teaching in the United States was the establishment in 1892 at the newly established University of Chicago of an extension program as one of the university's five major divisions. Correspondence studies were one of five departments in the extension division (Simonson et al., 2015). Under this program, titled the Department of Home Study, students could take up to one third of their courses through mail correspondence (Caruth, 2013). The program at the University of Chicago was the beginning of the growth of programs utilizing correspondence studies at land grant universities. The mission of land grant universities was not only to provide farmers' children with access to college but also to train adult workers and adult farmers with employment skills to enhance economic development within the states (Moore, 2003).

Between the 1890s and 1920s, correspondence offerings by universities began to grow. Universities that established correspondence courses and programs included the University of North Carolina, University of Wisconsin, Iowa State University, Pennsylvania State University, and the University of Minnesota. During this time, the primary focus of correspondence studies was either training for farmers or training for teachers (Edelson & Pittman, 2001). The first-generation educators' focus was on providing access to education to those parts of society such as the working class and

women who were typically left out of the emerging educational model of the time of brick-and-mortar classrooms (B. Anderson & Simpson, 2012). By 1930, an estimated 39 universities across the country offered correspondence study by mail (Moore, 2003).

Parallel to the development of university-based correspondence study in the early part of the 20th century was the rise of for-profit correspondence schools. These types of schools were fueled by the rise of job opportunities in a range of occupations, which required demonstration of specialized skills. These skills were assessed by completing performance tests and often required a state license as prerequisites to work in the field (Edelson & Pittman, 2001). As the goal of the commercial correspondence schools was to make money, the schools varied in their offerings, with some offerings excellent yet other offerings containing fallacious practices. By the 1950s, because of the increasing prevalence of deceptive practices by predominant commercial correspondence schools, federal student aid to students was withdrawn. Also, the perception had developed that correspondence study was not equal to traditional forms of education, despite having well-known professors and universities offering courses and programs (Saba, 2011).

Second generation: Radio and television educational broadcasting. The emerging use of radio and then television technologies was the hallmark of the second generation of DE (B. Anderson & Simpson, 2012). Radio was first used in DE instruction with the awarding of the first radio licenses to the University of Minnesota, the University of Wisconsin, and the Latter-Day Saints University of Salt Lake City in 1921. The Federal Radio Commission and its successor, the Federal Communications Commission, awarded over 200 educational radio licenses to colleges and universities from 1918 to 1946 (Casey, 2008). The major limitation of early educational radio's

effective use as a DE method was that it was passive learning, involving only a one-way means of communication from sender to learner (Saba, 2011).

As highlighted by Lang (2012), an example of the use of radio as a DE tool was the launching of the School of the Air in 1931 by Wisconsin Public Radio, recognized then as WHA Radio. The School of the Air's goal was to "simultaneously entertain, educate, and create a sense of community" (Lang, 2012, para. 2). Reflecting the changes taking place in the country, as rural areas received electricity, the School of the Air offered a series of radio lessons, 15 to 30 minutes, designed to provide elementary and high school students in isolated, rural areas of the state the opportunity to improve living standards and decrease the living standard gap compared with students in urban areas (Lang, 2012). The lessons, aligned with state education standards, included an innovative format for "experimenting with audio lessons that could vividly capture the essence of art, music, geography, and a multitude of other subjects" (Lang, 2012, para. 3). The School of the Air became one of the most successful examples of using the medium of radio to deliver DE instruction. It lasted until the mid-1990s and provided generations of Wisconsin rural school children with "across-the-board enrichment. By putting a different spin on materials that students were already studying, the radio programs increased students' enthusiasm for the topic at hand" (Lang, 2012, para. 31).

The use of television as a DE medium began in the 1930s when Purdue University, Kansas State College, and the University of Iowa started broadcasting instructional programs (Simonson et al., 2015). Saettler (1990), in his seminal work, *The Evolution of American Educational Technology*, noted that in 1945 Iowa State University received the first educational television license in the United States and began

broadcasting as the first educational television station in 1950. As noted by Casey (2008), the Federal Television Commission launched the Instructional Television Fixed Service in 1963. Consisting of 20 dedicated television channels, the Instructional Television Fixed Service provided colleges and universities with dedicated bandwidth to broadcast distance learning courses. The first license was awarded to the California State University system that same year (Casey, 2008).

Third generation: Systems approach. The third generation in the history of DE began in the 1960s as DE programs began to be offered by mainstream colleges, universities, and to some degree kindergarten through Grade 12 schools (Casey, 2008). A milestone that characterized the third generation was the mid-1960s Articulated Instructional Media (AIM) Project located at the University of Wisconsin in Madison. It was funded by the Carnegie Corporation and directed by one of the major pioneers, Charles A. Wedemeyer (Casey, 2008; Diehl, 2013). Wedemeyer was one of the first educators to promote scholarly study of correspondence education. Wedemeyer was also one of the first scholars to stress that research should focus on the independent learner (Diehl, 2013).

Wedemeyer's goal with the AIM Project "was to test the idea of joining (i.e., 'articulating') various communications technologies with the aim of delivering high-quality and low-cost to off-campus students" (Moore & Kearsley, 2011, p. 32). Media employed in the AIM Project included not only materials delivered by correspondence but also audiotapes, telephone conferencing, television and radio broadcasts, study groups, library resources, and tutoring (Moore, 2003). As a result, the AIM Project was identified as the first time that DE was looked upon as a total systems approach in the

delivery of distant instruction (Moore & Kearsley, 2011).

The AIM Project, which lasted from 1964 to 1968, was discontinued due to loss of Carnegie Corporation funding and internal conflicts with the University of Wisconsin over control, faculty, and academic benefits (Moore, 2003; Moore & Kearsley, 2011). “The AIM project quickly became the standard in university DE development” (Rickman & Wiedmaier, 2011, p. 7). In 1969, the British Open University was created using the scheme of the AIM Project with Wedemeyer as a major consultant (Casey, 2008; Diehl, 2013). The Open University was one of the most successful examples of the emerging DE format. By 2003, approximately 20,000 students had received bachelor’s degrees at the Open University since its founding. Also, total enrollment had risen to over 100,000 students. The Open University has been ranked among the top colleges and universities within the United Kingdom (Moore, 2003). With the increased awareness of the DE approach, symbolized by the success of the Open University, other countries began to create open DE universities using attributes of the Open University model. The Open University model included DE universities not only in developed countries such as Canada, Japan, and Germany but also in developing countries such as Iran, Pakistan, and Turkey (Moore, 2003; Simonson et al., 2015).

Several colleges launched DE programs and courses during the 1970s with attributes based partly on the Open University model (Moore, 2003). As Moore (2015) detailed, one was Empire State College, created in 1971 by the State University of New York, which offered bachelor’s degrees as well as associate degree programs solely in the DE format. Another one was Nova Southeastern University, which began operations in 1964 as Nova University for Advanced Technology, later becoming Nova University and

then Nova Southeastern University (Moore, 2015). Other universities that began providing open degree programs in the 1970s included Thomas Edison College, the Regents College of New York, and Syracuse University. Several universities developed courses based directly on the Open University model, including the University of Houston, the University of Maryland, and Rutgers University. The majority of the universities, with substantial commitment and history in extension and correspondence courses and programs, had retooled them in the DE model by the early 1990s (Moore, 2015).

In 1998, the U.S. Open University was established by the United Kingdom Open University as a sister university and adopted the Open University's "model of distance education through Supportive Open Learning" (Krenelka, 2005, p. 2). By 2002, however, the U.S. Open University had closed its doors because enrollment forecasts did not match enrollments, the university could not receive accreditation and federal financial aid for students, lack of alternative short-term and long-term funding, and contrasting business models between American and British business structures (Krenelka, 2005).

Fourth generation: Teleconferencing. Teleconferencing has its beginnings with the development of satellite transmissions. Satellite transmission of distance learning programs was introduced in the late 1960s and became widespread by the 1980s due to its decreasing cost in comparison to increasing benefits (Simonson et al., 2015). Satellite transmissions reduced travel for training, as training now could take place on site. Corporations and the U.S. Military became heavy users of satellite-based training. For example, a subsidiary of American Express created module courses to train personal financial planners across the country (Casey, 2008). Within the field of education, Alaska

began operation of Learn/Alaska in 1980. The program provided over 100 villages scattered across the entire state, with many reachable only by airplane, with 6 instructional hours each day. Another example was the TI-IN Network, a privately funded entity in Texas, launched in 1985. It offered a myriad of courses by satellite transmission to high schools throughout the United States (Simonson et al., 2015). A third example was the creation in 1985 of the National Technological University, which used satellite technology to provide both online degree programs for graduation programs as well as continuing education programs in both real time and recorded video format (Casey, 2008).

As reflected by Simonson et al. (2015), teleconferencing came of age at the end of the 1980s and early 1990s with the development of fiber-optic communications systems, which expanded significantly the transmission of real-time, superior, two-way, video and auditory educational programs. For example, at the present time over 1,000 classrooms in Iowa are connected with real-time, two-way voice, video, and Internet services through the Iowa Communications Network (Simonson et al., 2015). With the fourth generation, for the first time direct real-time interaction between the teacher and distant learner became feasible. As noted by Heydenrych and Prinsloo (2010), “Fourth-generation distance education is based on two-way communications technologies that allow for direction between the teacher (who is seen as the originator of the instruction) and the remote student” (p. 18).

Computer- and Internet-based virtual classes. The use of computers began in the 1940s and increased each decade as costs dropped. In the 1960s, computers were introduced into both the postsecondary sector and the kindergarten through Grade 12

sector. Towards the end of the 1960s, networks of computers across rooms and campuses began to spread (Rickman & Wiedmaier, 2011). As indicated by Moore (2015), a key player in the expansion of computers into the classroom was the National Science Foundation, which in the mid-1980s created the National Science Foundation Network composed of both research institutes and colleges, connected to five supercomputer centers.

By the early 1990s, additional networks connected over 500 educational centers. They included BITNET, created by Yale University and City University of New York, and Usenet, launched by Duke University. Each network provided electronic bulletin boards and libraries, as well as the ability to send and receive data files and e-mails (Moore, 2015). In the mid-1990s, two milestones occurred in the growing acceptance of the DE model in mainstream education. The first was Penn State University's expansion of its DE program. Penn State University set a strategic goal for the DE model to become an essential component of the university's future, which led to the creation of Penn State's World Campus (Moore, 2015). The second milestone was the establishment of Western Governors University among several western states' governors. Western Governors University is "a 'virtual university' without a campus and has a significant dependence on technology" (Caruth & Caruth, 2013, p. 124).

A major turning point in the history of DE began in the late 1970s with the development of the personal computer, or microcomputer. This technological phenomenon resulted in the rapid spread of computers across schools, libraries, colleges and universities, and homes across society (Rickman & Wiedmaier, 2011). A second major turning point was the development of the Internet in the late 1980s and the World

Wide Web in the early 1990s (Casey, 2008; Rickman & Wiedmaier, 2011). The combination and rapid growth of the personal computer and the web quickly changed the landscape of DE at the beginning of the 21st century, enabling it to move into the mainstream of education. As stated by Rickman and Wiedmaier (2011),

Distance learning transformed teaching and learning taking a major step from teleconferencing with a video-based satellite feed to an online learning system with real-time chat capabilities, asynchronous testing, and VoIP [voice over Internet protocol] audio feeds connected to real-time presentations. Distance education transitioned from servicing a few and dedicated to omni-present access. (p. 8)

Besides advances in technology, the federal government had a major role in fueling the rapid growth of DE in higher education within the United States. Before 2006, colleges and universities operated under the 50% rule. Under this rule, no more than 50% of courses at a college or university could be offered as DE courses without the school losing the right to offer Title IV student financial aid. The 50% rule ended in 2006 and resulted in a large increase of educational institutions providing courses, programs, and degrees online (Deming, Goldin, Katz, & Yuchtman, 2015).

The blended or hybrid approach to DE is increasingly being used in higher education (L. Johnson, Adams Becker, Estrada, & Freeman, 2014). Crawford, Barker, and Seyam (2014) defined the blended approach as a mixture of online and face-to-face instruction, with the online instruction representing 30–79% of the course. Helms (2014) and Biddix, Chung, and Park (2015) reported that the results of several empirical studies indicated a more positive impact on student success in hybrid or blended courses when

compared to completely online DE courses “by adding a vibrant and organic supplemental learning component” (p. 162). Because of the increased use by students on the Internet, the blended or hybrid approach is causing an exemplar shift in educational approaches in the use of DE as an educational model. L. Johnson et al. (2014) stated,

Education paradigms are shifting to include more online learning, blended and hybrid learning, and collaborative models. Students already spend much of their free time on the Internet, learning and exchanging new information. Institutions that embrace face-to-face, online, and hybrid learning models have the potential to leverage the online skills learners have already developed independent of academia. Online learning environments can offer different affordances than physical campuses, including opportunities for increased collaboration while equipping students with stronger digital skills. Hybrid models, when designed and implemented successfully, enable students to travel to campus for some activities, while using the network for others, taking advantage of the best of both environments. (p. 10)

American Law Schools

Brief history. The beginnings of legal education in the United States can be traced back to the implementation of English common law in the 13 colonies (Spencer, 2012). Since the founding of the United States, three different approaches to legal education developed somewhat simultaneously as well as overlapped each other. They were the apprenticeship model, development of law professors, and the establishment of university-based law schools (Martinez, 2015).

Apprenticeship model. The English method of training individuals to become

lawyers through working as apprentices for other attorneys was the first approach utilized to becoming a lawyer in both the colonial period and the new United States (Martinez, 2015). This rudimentary method of training consisted of three parts. The first was studying the standard law books in the lawyer's office. The second involved copying legal documents for the lawyer. The third was shadowing the lawyer as he did a daily work routine (Farber, 2015). After several years, the apprentice would be admitted to the bar and become an attorney (Spencer, 2012). Some of the more distinguished figures in United States history became lawyers under the legal apprenticeship model. They included John Adams, Thomas Jefferson, and Abraham Lincoln (Martinez, 2015).

Although the apprenticeship model was the primary method for a person to become a lawyer for most of the 19th century in the United States, especially in rural and western areas, it was lacking in several aspects of training. First, the level of education was inconsistent, based on the amount of support and teaching given by the attorney to the apprentice (Martinez, 2015). Second, it was criticized as not preparing potential lawyers to effectively handle legal changes taking place in the United States as the nation moved from an agrarian society to an industrial and urban society (Spencer, 2012). Third, it was almost completely lacking in providing the apprentice an environment to study and learn legal theory (Martinez, 2015). As stated by Spencer (2012),

Ultimately, however, this approach was not enough; it focused on lawyering as a craft with undue attention to the need for lawyers to have a fuller understanding of the law and the ability to engage in more sophisticated legal analysis in a society of increasing legal complexity. (p. 1964)

Law professors. The next step in the history of legal education in the United

States was the development of law professors teaching undergraduate courses in law. This method developed in response to the inadequacy of the study of law theory in the apprenticeship model. The goal was to make the study of the theory of law a requirement before beginning an apprenticeship in a law office (Spencer, 2012). Thomas Jefferson at the College of William and Mary started the first law professorship in 1779. At the same time, a law professorship commenced at Benjamin Franklin's College in Philadelphia and at Brown College. These were followed closely with the creation of law professorships at Columbia University in 1793 and Princeton University in 1796 (Martinez, 2015).

Establishment of law schools. The beginning of law schools in the United States can be traced to both the apprenticeship model and law professorships created at universities and colleges. Some lawyers were successful in training apprentices and began to train several apprentices at the same time (Martinez, 2015). The Litchfield Law School, which lasted from 1784 to 1833, recognized as the first law school in the country, was founded in Tapping Reeve's law office (Spencer, 2012). Reeve was a young lawyer who founded a law practice in Litchfield, Connecticut, in 1772. In 1797, he became a judge on Connecticut's highest court, the Superior Court. After practicing law for 2 years, Reeve's first student was Aaron Burr, the future Vice President of the United States and also his brother-in-law (Cavazos, 2013). Independent of any university, the law school arose out of the increase in the number of apprenticeships working at the law firm (Spencer, 2012). Students were attracted to the law school because of its different approach to studying law compared to the apprenticeship model. As noted by Cavazos (2013),

The recognition of Reeve's "tutoring system as a formal school" was based on

“the growth of its student body, the formalization of its curriculum, the development of a library, the adoption of record-keeping procedures to further institutional memory, and the proliferation of organized pre-professional activities,” all of which came about slowly through the 1780s to the early 1800s. (p. 1139)

The curriculum included a study of Anglo-American private law in the form of 90-minute lectures held each morning. The length of the course of study was about a year and half with a summer break. In addition, weekly exams were given that lasted approximately 3 hours. with oral examinations the primary method of assessment (Cavazos, 2013; Spencer, 2012).

In the late 1770s, approximately 10 to 15 students per year studied at Litchfield. By the 1820s, the number of law students at Litchfield increased to an average of 40 to 50 students per year. Many of its graduates became the leaders in the development of university-based law schools (Cavazos, 2013).

In the early 19th century, the success of law professorships at universities led universities to establish the first university-based law schools. In 1817, the Harvard Law School was established as the first law school within the United States under the umbrella of a university (Martinez, 2015). In 1826, the Yale Law School was founded. By 1870, over 31 law schools had been founded at universities throughout the country. Major limitations of the 19th century law schools included the lack of a college degree to be accepted into a 2-year program (Spencer, 2012). In addition, the 19th century law schools struggled to attract enrollment. By 1829, enrollment in the Harvard Law School had declined to one student. The law school was saved from closing by the merger with a

privately owned law school. Tuition was set at \$100, the same cost as studying as an apprentice in a law firm. Yale's law school faced the prospect of closing in 1845 and again in 1869. Each time, local lawyers, teaching part time, assisted in keeping Yale's law school from closing (Farber, 2015). The lack of success for law schools during most of the 19th century can be traced to the popularity of the apprenticeship model as the primary avenue to becoming a lawyer and the hostility of local bar associations of attorneys to any formal educational requirements mandated for a person to become licensed to practice law within the United States (Spencer, 2012).

Modern law school. Towards the end of the 19th century, things began to change rapidly for university-based law schools. The apprentice model became obsolete with the increasing use of professional typists and stenographers (Farber, 2015). As reflected by Martinez (2015), in the late 19th and early 20th centuries, the modern university-based law school model began to emerge throughout the United States. By 1928, 176 colleges and universities had courses leading to a law degree. At first, the programs of study were undergraduate. In the 1920s, led by the Harvard Law School, the move towards a graduate education model of law education quickly became the norm across the country (Martinez, 2015).

Within a few decades, the Harvard Law School academic legal education model became widely diffused across American universities. Components of the academic legal education model included requiring graduate study, 3 years of study to complete the program, movement of faculties to a research orientation as opposed to a practical focus, change from privately owned and autonomous law schools to university-based law schools, and the use of the case study method as the chief teaching strategy in the law

school classroom (Arewa, Morriss, & Henderson, 2014). In addition, towards the middle of the 20th century, the ABA accreditation process began to require a college degree as a prerequisite to entering law school, further diffusing the academic legal education model. The legal academic model today in the United States of requiring a graduate law degree is in contrast with that of many countries, which require only an undergraduate degree to practice law (Martinez, 2015).

The golden age of the American law school began after World War II and lasted until the new millennium in 2000. As reflected by Matasar (2013), it resulted from the emergence of the United States as the world's superpower with worldwide prestige, innovation, new industries and markets, and growing political issues driven by the Korean and Vietnam Wars and the Civil Rights Movement. The increasing need for attorneys at all levels of American society, ranging from small firms to major corporate and government firms, impacted expansion of the legal market. Every year, as the need for more attorneys in the job market increased, salaries increased, law school applications increased, and tuition increased (Matasar, 2013).

Case study method. The chief attributes of the modern law school include both the graduate academic model of legal education and use of the case study method as the primary method of teaching law (Arewa et al., 2014). Martinez (2015) detailed how Christopher Columbus Langdell, at Harvard Law School, developed the case study method. Langdell served as dean of the law school from 1870 to 1895. Langdell is often associated with the inclusion of Socratic questioning used in conjunction with the case study. However, it was his disciple and successor, Dean James Ames, who implemented Socratic questioning as part of the case study method (Farber, 2015).

Langdell argued that the study of law was a science and that truths about the law could be derived using the scientific method of induction (Elias, 2016). Langdell also claimed that the effective tool for using the scientific method of induction was the case study method, where real cases were analyzed in the law school classroom to discover the underlying principles governing the law that could be applied to the case (Martinez, 2015). The case study method dramatically altered how law was taught in the emerging university-based academic legal education model. L. M. Friedman (2005) described teaching before the implementation of the case method:

Law school teaching was dogmatic and uncritical, except from the standpoint of the law's internal logic; or simply dogmatic from any standpoint. Law schools never conveyed a sense of connection between law and life; or even of the evolution of common law. Even the most brilliant lectures were fundamentally hollow. The basic aim of the schools was to cram young lawyers with rote learning, of more or less practical nature, as quickly and efficiently as possible. (p. 467)

The case study method, combined with Socratic questioning, became known as the Langdellian method or model of legal education. Since the early 20th century, the Langdellian method has been the dominant instructional method in American law schools (Spencer, 2012). The method has not been without its critics. It is often claimed to be ineffectual in preparing law students to deal with the scope of the real-world law practice, to cause law students angst and contempt for their studies, to be biased against female law students, and to promote rudeness as the typical conduct for engagement among lawyers (Hlinak, 2014).

Law school crisis. The golden age of law schools ended with the beginning of the Great Recession of 2008. The result has been a significant decline of the legal market. One indicator is the continued decrease in employment of attorneys in the United States. Employment in attorney offices in the United States declined by 47,000 attorneys between 2004 and 2010 (Lee, 2015).

In 2014, only 64.1% of law school graduates found employment that required passage of the bar exam. In 2015, the employment figures continued a negative pattern. Only 62.4% of the graduating class found work that required passage of the bar examination as a condition of employment. In both years, almost 10% of the nation's law school graduates were unemployed and seeking employment (ABA, 2016). Law school applications decreased from 87,000 students to 54,527 students between 2010 and 2014 (Couch, Harroz, & Levit, 2014). Even with a dramatic decline in law school applications in recent years, the current job market for attorneys continues to drop faster than the number of graduating law school students, resulting in a continued gloomy job outlook for law school graduates (Elias, 2016).

Because of high tuition rates at law schools and a continued, declining job market, many law school students have large student debts they are unable to pay (Weston, 2013). In addition, many students who do find work as attorneys still struggle, as the entry-level salary for lawyers is approximately \$60,000, whereas the average student loan debt for ex-students ranges from \$165,000 to \$250,000 (Lee, 2015). Tuition rates at law schools have continued to rise much faster than the inflation rate (Tamanaha, 2013a). Law school tuition rates more than doubled from 2003 to 2013 at public law schools, from \$10,891 per year to \$23,879 per year. The increase at private law schools was even greater, going

from \$25,574 per year in 2003 to \$41,985 per year in 2013 (ABA, 2013).

As reflected by Achuko (2013), compounding the problems of a declining job market and decreasing enrollment of new students has been the filing of class action lawsuits by students against their alma maters claiming deceptive employment reporting practices. The first lawsuit, filed in 2011 by a former student, was against Thomas Jefferson Law School. It was the impetus for a wave of lawsuits across the country. Since 2011, 14 other class action lawsuits were filed, and more were expected (Achuko, 2013). As reported by Tamanaha (2013b), three of the lawsuits were dismissed, but several remain in discovery status, with motions to dismiss them quashed by the presiding judge. The judges' rationales in the three dismissal cases were based on the following argument: "Prospective students cannot reasonably rely upon employment posted by law schools" (Tamanaha, 2013b, p. 185). The student lawsuits have affected the prestige and position of the law school in American society. Tamanaha (2013b) stated, "They mark a deep wound to the standing of law schools. . . . For law schools, which have always held themselves out as honorable institutions of learning and professionalism, this is crushing" (p. 186).

Barriers to DE in American Law Schools

Barriers to the implementation of a JD law degree in ABA-accredited law schools can be discerned from a review of the scholarly legal research literature. The barriers include the ABA's position on a DE JD degree, the perceived faculty resistance to the DE model, and the Socratic method used in law school classes.

The ABA. The ABA is recognized by the U.S. Department of Education as the official and sole agency for accrediting legal education programs within the United

States. In addition, most states require a student graduate from a law school accredited by the ABA as a prerequisite for obtaining a license to practice law in the state (Cahak, 2012). A primary barrier that has prevented the DE model in JD programs from being developed in ABA-accredited law schools has been the position of the ABA towards the DE model as it relates to a JD degree.

The resistance to approving a DE JD program in law schools can be illustrated by ABA's restrictive standards on DE. Before 2002, ABA standards explicitly prohibited ABA-accredited law schools from offering DE JD programs or courses (Hlinak, 2014). In 2002, the ABA published Standard 306: Distance Education, which for the first time created standards for offering a limited number of DE courses in a JD law school program. Standard 306 limited DE credits to 12, prohibited any DE course from being taken in the 1st year, and specified that no more than four DE credits could be taken in the same semester of study. The ABA standard did allow a course to have up to one third DE activities and still be considered a non-DE course (Bennett, 2014; Weston, 2013).

In 2014, Standard 306 was revised. However, instead of allowing a full-scale DE JD program, the revised standard represented only a piecemeal change from the previous standard. This revised standard reflected the continued resistance of the legal education profession to the DE JD model. The amended Standard 306: Distance Education reads as follows:

Standard 306. DISTANCE EDUCATION

(a) A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive

interaction among students and between the students and the faculty member, either synchronously or asynchronously.

(b) Credit for a distance education course shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.

(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.

(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 311(b) if:

(1) there is opportunity for regular and substantive interaction between faculty member and student and among students;

(2) there is regular monitoring of student effort by the faculty member and opportunity for communication about that effort; and

(3) the learning outcomes for the course are consistent with Standard 302.

(e) A law school shall not grant a student more than a total of 15 credit hours toward the J.D. degree for courses qualifying under this Standard.

(f) A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.

(g) A law school shall establish an effective process for verifying the identity of

students taking distance education courses and that also protects student privacy.

If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment. (ABA, 2015, pp. 19-20)

Huffman (2015) highlighted the changes of the 2014 revision to the previous Standard 306. They included a slight increase in the number of DE credits allowed, rising from 12 to 15 credits. In addition, all the DE credits could be taken at one time, as opposed to the previous limit of no more than four credits per semester. Left unchanged was the definition of the face-to-face class requirement that included no more than one third DE activities. Also left unchanged was the requirement that all 1st-year courses be taken in the face-to-face class setting (Huffman, 2015).

Although the 2014 revision of Standard 306 by the ABA represented an improvement towards a DE JD model in ABA-accredited American law schools, it did not offer enough in the way of latitude for any ABA-accredited law school to offer more than a limited number of DE courses. Cahak's (2012) statement towards Standard 306 was still applicable: "Although Standard 306 provides for some flexibility in providing Internet-based courses, it is far from allowing an entirely online law school" (p. 508).

Faculty resistance. Faculty resistance to DE was identified in the first Sloan Foundation study on DE in the United States. It has remained as one of the major barriers to successful implementation of the DE model in postsecondary education in any field. In 2003, the chief academic officers reported that only 27.6% of their faculty acknowledged the legitimacy and worth of the DE model. Although in 2007 that percentage rose to 33.5%, by 2015 it had declined to only 29.1% accepting the DE model (Allen et al.,

2016). Figures provided by the Inside Higher Ed annual survey on faculty technology attitudes were more pronounced, with only 17% of faculty members indicating acceptance of learning outcomes by students utilizing DE methods compared to face-to-face instruction (Straumsheim, Jaschik, & Lederman, 2015).

One faculty-related barrier to the DE model in legal education is the number of professors who have achieved tenure within the law school. The 2013 ABA questionnaire on law school staff indicated that 62% of all full-time professors had achieved tenure in ABA-approved law schools (ABA, 2014). Another 17% of full-time law professors were on tenure track (ABA, 2014). Tenured professors, in any field, tend to be the most resistant to accepting the benefits of a DE model in a program, as evidenced by the annual Inside Higher Ed survey on faculty technology attitudes. As to the statement, “For-credit online courses can achieve student learning outcomes that are at least equivalent to those of in-person courses in the following settings” (Straumsheim et al., 2015, p. 11), 61% of tenured faculty members disagreed or strongly disagreed with the question. Legal education critics, advocating law school reform, often regard tenure as an “immovable obstacle that prevents law schools from exercising agility in a time of economic crisis” (Chanbonpin, 2015, p. 622).

A second faculty barrier to the development of a DE model within the law school is the perceived resistance of law school faculty to curriculum change. Rapoport (2013) identified several attributes related to law school professors’ resistance to change. First, the majority of law school professors lack instruction in educational theory, which can provide a foundation to rethink curriculum. Second, law schools do not have a mechanism to reward faculty for revising the curriculum to improve student outcomes.

Third, law school professors achieve higher success within the law school based on scholarship as opposed to teaching skills, which further erodes professors' perception of the need for curriculum reform (Rapoport, 2013).

Canick (2014) highlighted an array of justifications, based on discussions with variety of law school faculty, as to why technology acceptance by many law professors continues to fall behind other disciplines in postsecondary education. First, professors sense that technology is being pushed on faculty without research-based evidence to back up claims of improvement in instruction. Second, the mindsets of many faculty members are that technology is not very reliable and that when problems with technology arise in front of a class, the professor has feelings of inadequacy and anxiety, which lessens the power a professor exerts over a class. Third, faculty have a predisposition against the value and benefits of the DE model increasingly used in many postsecondary disciplines. Many law professors feel the DE model is not on par with the face-to-face classroom setting (Canick, 2014).

A. L. Johnson (2013) reflected on three criticisms of DE in the legal education field. First was that DE could not duplicate the give and take of discussion in a face-to-face classroom. Since by definition, DE has the student and teacher removed from each other, the criticism of DE is that its "lack of pedagogical intimacy is believed to diminish student performance and engagement in the learning process" (A. L. Johnson, 2013, p. 7). Second was the perceived inability to have student and professor engage in immediate feedback in the DE classroom. Thus, many law school professors feel that DE will impair their ability to monitor comprehension and growth of individual students. Third was the perceived inability of law school students to engage effectively in problem solving

through teamwork and discussion with other students and the teacher in the real-time synchronous mode available in the DE model (A. L. Johnson, 2013).

The negative perceptions and criticisms of the DE model over the years among law school professors have been enhanced by the ABA standards, which limited DE in law schools. Canick (2014) stated,

Law professors' misperceptions are emboldened by ABA standards, which say little about technology in general, but which address distance learning specifically. In particular, Standard 306 limits the number of credits a law student can obtain via online courses. . . . These limits validate the bias against technology by suggesting that too much is inconsistent with a high-quality program of legal education. (pp. 677-678)

The 2014 revisions of Standard 306 (ABA, 2015), which increased the number of credits that could be taken online by three credits, did little to change this perception of DE inferiority by many law school professors.

A third barrier to the implementation of a DE model in ABA-accredited law schools is related to the perception of the inability to effectively use the Socratic method in the DE model. Although many criticisms have been made of the dominance of the Socratic method in American law schools since 1875, it is still considered a powerful teaching tool in the law school classroom (Abrams, 2015). Hlinak (2014) stated, "A properly constructed Socratic questioning session allows students at all levels to strengthen their arguments and critical-thinking skills" (p. 1).

Huffman (2015) detailed perceived obstacles by many law school professors to conducting a Socratic method session in a DE environment. First, synchronous

technology, either in a chat room or audio- or videoconferencing mode, is difficult to equate with the real-time classroom experience of the oral dialogue between student and professor under the scrutiny of other students. Huffman stated,

One-on-one verbal discourse between the professor and student, observed by other students who imagine themselves in the hot-seat, is difficult to conduct at a distance. Synchronous teaching using audio-conference or chat-room technology makes Socratic dialog possible, but stilted. (p. 61)

Second, the asynchronous component of the DE model eliminates the pressure of a real-time response to a situation or question, which makes a Socratic approach impossible. Because students control when they log on, respond, and log off, they have time to contemplate questions and even seek other sources for the response (Huffman, 2015). As chronicled by Huffman (2015),

The difficulties faced in reproducing century-and-a-half old teaching methods in online instruction likely explain institutional reluctance to move quickly into online teaching. Law professors seeking to emulate their own educational experiences may reject innovations that undermine in-person Socratic dialogue. Law faculty frequently comes from the ranks of judicial clerks and appellate lawyers, where they have found their particular skill sets highly prized. (p. 61)

Rationales for the DE Model in Law Schools

Several legal scholars have presented arguments for implementation of the DE model leading to a law degree in American law schools. Rationales included the benefits of the DE model as a viable model for getting a law degree, growth of the DE model in ABA-accredited law schools, and the success of the non-ABA-accredited online law

school.

Benefits of the DE model in law schools. Huffman (2015) reflected that student costs could be reduced, at least in terms of living and transportation expenses, if students took their entire program utilizing a DE model of study. Also, because of the increased access to casebook and other legal materials online, costs to the student could be reduced. Bennett (2014) maintained that passing the lower costs on to students would allow beginning lawyers to take positions with less pay. Bennett also indicated that students who could not afford more expensive schools could enroll in law school.

Both Bennett (2014) and Huffman (2015) argued that the DE model would provide much greater flexibility to the nontraditional law student. This included the student living far from a campus and the student seeking a second career, working already full time with a family who could not easily move to become a full-time student in a traditional law school. In addition, Bennett noted that the DE model gives practicing attorneys the opportunity to add to their credentials or change their specialty, given the flexibility of DE model compared to the traditional face-to-face classroom model.

Hlinak (2014) argued, based on his work including DE activities in his law classes, that the face-to-face Socratic method, rather than being a barrier to the implementation of a DE model, can be as effective and sometimes better in the DE environment. Since the instruction is not face to face, the fear that many students experience in a real-time classroom setting is eliminated. The Socratic method can be utilized in both synchronous and asynchronous discussions. In the synchronous format, the Socratic discussions can take place in either chat rooms or web conferencing and operate just like the give and take of a face-to-face Socratic discussion with rapid and

short dialogues (Hlinak, 2014). A key advantage with synchronous Socratic discussions is that all students respond to the question together rather than just one student, as in the classroom. The asynchronous format for Socratic discussions takes a different approach. The professor's prompt is available for response for several days, allowing for more thoughtful and complex responses to the prompt. In addition, the various responses to the prompt become part of the documentation of the response, functioning as supplemental text for the class (Hlinak, 2014).

Bennett (2014) contended the DE model presents several opportunities to greatly expand the learning experiences of law students. First, recorded lectures can be used instead of or to enhance face-to-face classroom lectures. As students can view the recorded lectures before class more than once, they may come to class prepared to be involved with a more active engagement of discussion and questions, as opposed to sitting and listening to the lecture. Second, to give students a broader perspective, recorded lectures from professors at other schools can be used, giving students multiple viewpoints on an issue or topic. Third, live or synchronous sessions can provide an avenue for many students to discuss a topic together and not just one student with the professor (Bennett, 2014). Live sessions can provide professors with tools to evaluate comprehension of the discussion, enabling the professor to concentrate on student weaknesses in learning and understanding the material. Also, live sessions involving guests and professors from other locations may foster a more enhanced student engagement in discussions or other practical experiences (Bennett, 2014).

Nolon (2013) reflected on the strengths of both asynchronous and synchronous DE activities, which included simulations of negotiations, based on a course he

developed and taught in environmental law. Nolon noted that the major advantage of the DE model was the ability of the professor to assess each student's work at every stage of the simulation and provide access to all of the students' work in the simulation problems, as opposed to face-to-face instruction, where the professor sees only the part of the simulation. This type of continual assessment enabled the professor to provide individual feedback to students at every step of the simulation (Nolon, 2013).

Van Detta (2015) provided a unique perspective on the DE model in courses leading to a JD law degree. He is a law school professor who has created and taught several DE courses, including torts, writing, jurisprudence and writing, conflict of laws, and commercial law. Van Detta (2015) stated,

Rather than isolating students, online legal education has proven to be bond building. Rather than passive, online legal education has proven to be highly interactive. Rather than becoming a separating force, online legal education has been an incredibly cohesive force by creating-particularly in moderated, online live classrooms—a safe space where students are so engaged that class participation rates soar on a regular basis, as the moderated format brings forth the “silent majority” of law students who rarely speak in class. . . . Online legal education helps students (and helps professors to help students) focus on the logic and syntax of written legal expression; this skill is at the heart of modern law practice and is the one that many graduate students, in law or other disciplines, find to be the most challenging. (p. 110)

DE model in ABA-accredited law schools. Various DE courses and programs have been developed and implemented at ABA-accredited American law schools since

ABA Standard 306 was published in 2002. Hess (2013) examined the results of an ABA 2010 survey of ABA-approved law schools' curriculum offerings and found that 37 ABA-accredited law schools provided 189 synchronous DE courses, of which 70% could be used to meet the requirements of a JD degree.

Huffman (2015) reported that ABA standards do not have restricting language for non-JD degrees, graduate certificates, and the new Master of Jurisprudence degree. As result, DE courses to give students greater flexibility in pursuing the study of law were developed at the Indiana University Robert H. McKinney School of Law through the creation of Indiana University McKinney Law Online. Currently, Indiana University McKinney Law Online (2016) offers 20 courses available either completely in a DE format or blended format. All the DE and blended courses offered are used for credits in eight graduate certificate programs available through the law school (Indiana University McKinney Law Online, 2016). Future plans entail offering a Corporate and Commercial Law graduate certificate and a Master of Laws (LLM) degree completely in a DE format (Huffman, 2015). Several law schools started American legal certificate studies in the DE format in 2013. They included Washington University School of Law, John Marshall Law School, Florida Coastal School of Law, and Thomas Jefferson School of Law (Van Detta, 2013).

In 2010, the Florida Coastal School of Law launched a completely DE model LLM program. It was marketed to lawyers trained outside the United States who needed LLM certification for states that required it as a prerequisite for taking the bar examination in that state (Van Detta, 2013). In 2014, the ABA approved the Thomas Jefferson School of Law to offer an LLM degree solely in the DE format (Bennett, 2014).

Another approach to develop a DE model under the guidelines of ABA Standard 306 was the establishment in 2013 of the Consortium for Innovation in Legal Education under the direction of the California Western School of Law. In addition to the California Western School of Law, the consortium included the South Texas College of Law, New England School of Law, and William Mitchell College of Law. Each DE course developed went through curriculum review for authorization at the specific Consortium for Innovation in Legal Education School. Also, each law school monitored the number of courses taken by students and when taken to ensure ABA compliance (A. L. Johnson, 2013).

The most aggressive approach to date of testing ABA Standard 306 was the part-time JD blended DE program started by the William Mitchell College of Law in January 2015. The key to this program was approval by the ABA of a variance in the limit of no more than one-third of class time in a DE format. Under the ABA-approved variance, half of all courses in the program would be conducted in a DE blended format using both asynchronous and synchronous tools available as part of a learning management system (Janus, Duhl, & Canick, 2014). Janus et al. (2014) noted that the program was intended to provide a research-based approach to innovations in legal research under the umbrella of the ABA. Janus et al. stated,

A transformation resulting in a more diverse set of approaches to legal education is inevitable. The shape of that transformation will be best guided by careful attention to learning outcomes, the assessment of student learning, and program assessment. William Mitchell College of Law is committed to working with the ABA and the broader legal educational and professional communities as we move

into the future to help build an accessible and innovative program that maximizes student learning. (pp. 34-35)

Non-ABA-accredited online law schools. Only five states and the District of Columbia specifically allow students from non-ABA-approved online law schools to take the bar examination for licensing as attorneys in their respective states (Moeser & Guback, 2016). Of the five states and District of Columbia, California has provided the easiest way to become an attorney. Students enrolled in online JD programs in the state take a “baby bar” examination at the end of their 1st year and, if successful, can sit for the California Bar Examination after completion and graduation from the online program (Cahak, 2012).

Cavaliere (2013) reported that some of the more successful online law schools were established in California. One of the more widely known schools is the Concord Law School, which has awarded over 1,000 law degrees since its launch in 1998. The Concord Law School achieved a significant first when, as stated by Cavalier, “the formal merger of Concord into Kaplan University in the fall of 2007 made Concord the first online law school to be part of a regionally accredited institution of higher education” (p. 15). As reflected by Cahak (2012), the continued growth in Concord Law School’s enrollment illustrates that it is meeting a need in the United States for the study of law. A profile of the student body indicated older, more mature students with work and family ties and commitments, who cannot attend traditional brick-and-mortar law schools. Its lower tuition cost, when compared to traditional law school institutions, is another indication of its success in providing low-income students an opportunity to earn a law degree (Cahak, 2012). Evidence that Concord provided comparable learning experiences

to the traditional classroom model included use of nationally known legal scholars in guest lectures and use of adjunct professors from ABA-approved, traditional, face-to-face law schools (Akin, 2012). As noted by Cahak, “As Internet usage becomes commonplace across the socioeconomic spectrum, Internet law schools can serve as a useful tool for promoting access to the law and legal profession” (p. 526).

Research Questions

The purpose of this phenomenographic qualitative study was to identify, describe, and understand law school deans’ variation of conceptions towards DE. Two central research questions were asked (Research Questions 1 and 2). Additionally, three subquestions were developed (Research Subquestions 3–5). The five questions guiding this study were the following:

1. What are variations in law school deans’ conceptions of DE?
2. How does Rogers’s perceived attributes theory elucidate law school deans’ conceptions of DE?
3. Do law school deans’ conceptions of DE reflect an accurate understanding of its essential elements?
4. How do law school deans form their understanding of DE?
5. How do law school deans perceive DE as an educational tool?

Chapter Summary

This chapter has highlighted the theoretical framework that guided the study. The theoretical perspectives included a discussion of the phenomenographic approach, used to discover and understand variation in the conceptions (Marton, 1994) of law school deans about DE. Also discussed was how Rogers’s (2003) constructs in the perceived attributes

theory, a subtheory of the DoI theory, were utilized to gain a better understanding of law school deans' conceptions about DE in the law school.

This chapter also provided a historical overview of the growth of the phenomenographic approach in qualitative research outside of education. Beginning in Sweden, phenomenography has gained acceptance as a qualitative research tool around the world for educational research and especially higher education. In addition, it has been increasingly used in noneducational context across many disciplines and subjects (Akerlind, McKenzie, & Lupton, 2014; Limberg, 2008; Tight, 2015).

This chapter detailed both the growth of DE as an educational model in American education and the growth and the problems of the American law school. Legal scholars argued both for and against the value of the DE model in the curriculum of the law school, highlighting both perceived barriers and perceived advantages in the model. The DE model in the ABA-accredited law school is inching closer to implementation, even though it remains an issue in the legal education community. As Van Detta (2015) stated, "Whether ready or not, legal education will be vaulted into the online world as its consumers ramp up their demand for it and demand the associated cost and convenience savings that it affords" (p. 144). In the chapter that follows, the phenomenographical methodology and design for discovering variations in conceptions of law school deans about DE are outlined.

Chapter 3: Methodology

Aim of Study

The aim of the study was to learn and explore the variations in conceptions of law school deans of DE as an educational model within the parameters of the ABA-accredited law school. A qualitative approach to the study was selected. This approach was appropriate, as Creswell (2014) noted, “Qualitative research is an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem” (p. 4).

Participants

The target population of participants were law school deans selected from ABA-accredited law schools throughout the country. As reported by Goldberg (2015), the average law school dean serves approximately 3 years. Weiss (2010), analyzing a comprehensive list of American law school deans, discerned two types of law school deans. The first type is the *traditional dean*, defined as one

who, after a brief period of practice or government, typically as an appellate law clerk, joins the legal academy as a tenure-track professor; writes and teaches; achieves tenure; perhaps serves as an associate dean, for academic affairs or the like; and then is appointed to a deanship. (Weiss, 2010, pp. 929-930)

The second type of law school dean is the *nontraditional dean*, defined by Weiss as one “who comes to the deanship with near, or altogether, exclusively professional experience (say, private practice or government service) with no significant prior connection to the legal academy, except as a JD student, and with no tenure-level publication record” (p. 930).

The most recent demographic data on deans of ABA-accredited law school, based on the 2013 annual questionnaire of approved law school staff and faculty members, reported that 71% of the law school deans were male and 29% were female (ABA, 2014). Ethnic composition is represented in Table 2.

Table 2

Ethnic Composition by Percentage of American Law School Deans, 2013, by Gender

Gender	European American	African American	Hispanic	Asian	American Indian
Male (<i>N</i> = 144)	82.6	10.4	4.9	2.1	0.0
Female (<i>N</i> = 58)	70.7	19.0	8.6	0.0	1.7

Note. Data source: *Data From the 2013 Annual Questionnaire: ABA Approved Law School Staff and Faculty Members, Gender and Ethnicity: Fall 2013* [Data file], by American Bar Association, 2014, retrieved from http://www.americanbar.org/groups/legal_education/resources/statistics.html

Data Collection Tools

A single semistructured interview, with open-ended questions, is the primary method for gathering data in phenomenographic studies and was the method of data collection in the study (Bowden, 2000; Larsson & Holmstrom, 2007). This differs from many other qualitative methodologies, which often allow for additional or follow-up interviews (Green, 2005). The focus of the interviews was to “explore the lived experiences of interviewees and their conceptual meanings of the phenomenon of interest” (Sin, 2010, p. 313). Interviewees were encouraged “to speak freely about their experiences, giving concrete examples to avoid superficial descriptions about how things should be or ought to be” (Larsson & Holmstrom, 2007, p. 56). Ashworth and Lucas (2000) detailed several guidelines for effective phenomenographic interviews, which guided the interview process:

- Use open-end questions;

- engage in empathic listening to hear meanings, interpretations, and understandings;
- [interviewer should] consciously silence his or her concerns, preoccupations and judgments; and
- use prompts to pursue/clarify the participant's own line of reflection and allow the participant to elaborate, provide incidents, clarifications and, maybe, to discuss events at length. (pp. 302-303)

The intentional-expressive interview strategy was used in the interview process (Sin, 2010). The initial questions focused on the phenomenon (Anderberg, Svensson, Alvegard, & Johansson, 2008; Sin, 2010). The follow-up questions with elaboration prompts were designed to “encourage interviewees to reflect on the conceptual meanings of the terms or phrases in the expressions that they have used” (Sin, 2010, p. 313). Elaboration prompts are designed to probe for more specificity or elucidation about a part or aspect of an idea discussed by the interviewee (Rubin & Rubin, 2012). As shown in Appendix B, elaboration prompts that were used in the follow-up questions to ascertain conceptual meanings included, “Can you explain that further?” or “Can you give an example?” (Stenfors-Hayes, Hult, & Dahlgreen, 2013, p. 262). Other elaboration prompts used included, “What do you mean by that?” and “Why does that happen?” (Dall’Alba, 2000, p. 93).

Procedures

Interview protocol. The researcher developed an interview protocol of all questions to be asked to ensure that phenomenographic guidelines were followed (Mann, Dall’Alba, & Radcliffe, 2007). The protocol included detailed directions to guide the

interview process, including header, list of questions to be asked, and space to record notes or reflections on each interview. The header included key information related to the interview, including purpose statement and written reminder to inform participants that the interview was being recorded (Creswell, 2014). The list of questions asked is found in Appendix B.

Data sample framework. A data sample framework incorporating the four pan-paradigmatic framework constructs was utilized for the study. The constructs included the sample universe, sample size, sampling strategy, and sample sourcing (O. Robinson, 2014).

Sample universe. The sample universe used in the study was law school deans from ABA-accredited law schools. The publication, *The Deans of Member Law Schools*, available from the Association of American Law Schools (2017), was used as the source to identify potential law school dean participants. Participants' schools were verified with the member school list available from the ABA to confirm that all participants were from ABA-accredited schools. At the time of the study, the Association of American Law Schools had 180 members. Sample e-mail units were created from the sample universe of law school deans based on the maximum variation identified for law school deans (Gentles, Charles, Ploeg, & McKibbon, 2015). Selection to the sample e-mail units included potential participants based on gender, age, geographic location, ethnicity, traditional dean, and nontraditional dean.

Sample size. The study goal was a sample of 20 law school deans. Larsson and Holmstrom (2007) reported that empirical evidence from previous phenomenographic studies showed that 20 interviewees are sufficient to explore the various ways of

understanding a phenomenon under investigation. Trigwell (2000) reflected on using a sample size of between 15 and 20 participants. Trigwell reported that 15 participants would be sufficient for a basic analysis but that 20 participants would provide for a more developed and robust analysis. Trigwell also stated that sample sizes of more than 20 would make the data analysis difficult to manage.

Twenty-four law school deans agreed to be interviewed and submitted signed Nova Southeastern University Informed Consent Forms. However, one dean canceled due to an emergency. The first three interviews were part of the pilot study. Thus, 19 interviews were used in the phenomenographical analysis.

Sample strategy. Participants were selected using the maximum variation sampling design, which is the recommended type of sampling design in phenomenographic research (Akerlind et al., 2005). In a maximum variation or heterogeneity sampling, the goal is to determine the essential dimensions of variations of the study and then select participants based on a widest variety of variations possible, including experience, age, and gender (Akerlind et al., 2005). Suri (2011) reflected that maximum variation should be “constructed by identifying key dimensions of variations and then finding cases that vary from each other as much as possible” (p. 5).

Sample sourcing. In sample sourcing, participants are contacted to gauge their potential interest in the study (O. Robinson, 2014). A law school dean’s job is quite busy, with the dean having to balance a myriad of responsibilities, initiatives, constituents’ needs, and day-to-day issues and problems (Grossman, 2010). Contact asking for participation in the current study was made by e-mail, as law school deans use e-mails extensively. Essary (2009) stated that e-mails have become an important and effectual

communication method used extensively by law school deans. As noted by K. R. Johnson (2011),

To avoid any miscommunications attached to failing to respond to an e-mail (such as having silence being interpreted as a sign of disrespect, if not malevolence), I have always striven to respond in some form to virtually almost all e-mails from faculty and students in a timely manner. (pp. 640-641)

An invitation e-mail form was created for the study. Following the recommendations of O. Robinson (2014), the e-mail included a description of the aims of the study, stressed that all participants' efforts would be voluntary, and offered to provide any additional information needed decision for participation in the study. Also, language was included in the e-mail form stressing the commitment to integrity and privacy of all potential participants (O. Robinson, 2014). In addition, the Informed Consent Form was attached as a PDF file to the invitation e-mail.

Recordings. All interviews were digitally recorded through telephone interviews. Recordings and verbatim transcriptions were done through NoNotes, a web-based recording and transcription service available as an app on the iPhone (NoNotes, 2017). As the participants resided throughout the United States, the time and place of the interviews were determined by the participants' schedules.

Institutional Review Board (IRB) approval. Each university is required to establish an IRB to ensure the ethical parameters of all research, with the goal to monitor and lessen any potential risk to individuals (Rubin & Rubin, 2012). The researcher prepared all IRB documents required by the researcher's university for approval of the study.

Pilot interviews. After approval of the study by the IRB, pilot interviews were conducted. Pilot interviews were critical because they provided real-life scenarios for data gathering and were crucial for improving the data collection in a qualitative study (Glesne, 2006). As stated by Glesne (2006),

A pilot study is useful for testing many aspects of your proposed research. Pilot your observations and interviews in situations and with people as close to the realities of your actual study as possible. . . . Researchers enter the pilot study with a different frame of mind from the one they have when going into the real study. The idea is not to get data per se, but to learn about your research process, interview questions, observation techniques, and yourself. Clarify your piloting intentions for respondents. . . . Use the pilot study to test the language and substance of your questions, and the overall length of your interview. Use it to determine how your introduction to the study works. Is it too long or not detailed enough? What else do people want to know? Does it inform as broadly as necessary to reassure others about your proposed project? (p. 43)

Pilot interviews are essential in phenomenographic research. Piloting allows the researcher to practice phenomenographic interviewing techniques (Akerlind, 2005a; Akerlind et al., 2005; Bowden, 2005). In addition, pilot interviews allow for the planned questions to be checked, ensuring that they will provoke appropriate responses to the proposed phenomenon under investigation. If responses do not correlate to the proposed investigation, questions will need to be altered and modified until appropriate responses are developed (Bowden, 2005).

Especially important was the researcher's analysis of the follow-up prompts used

in the pilot interviews to refine them. These follow-up prompts are more important in phenomenographic research than the initial questions in extracting variation in meaning of the phenomenon under discussion (Akerlind et al., 2005). In a phenomenographic study, pilot interviews must be conducted with comparable participants (Bowden, 2005). In the study, the pilot interviews took place with law school deans who were not part of the sample to be used in the full study. After analysis of the pilot interviews and modifications made to the interview instrument, the pilot interviews and data generated by them were discarded and not included as part of the final study (Bowden, 2005). The pilot interviews consisted of three interviews as suggested in previous studies by phenomenographic researchers (Akerlind, 2005a; Green, 2005). Based on the pilot interviews, interview questions were revised and expanded to add more depth to the interview.

Data Analysis

In phenomenographic research, all interviews are transcribed verbatim, and the transcripts become the central focal point of analysis in the investigation (Akerlind, 2012). Verbatim transcripts were analyzed as part of a collective whole. The focus was to look for dissimilarities and commonalities relative to each other (Adams, Forin, & Srinivasan, 2010). The emphasis of analysis was to identify and understand variations participants had towards the phenomenon through a “rigorous process of transcript-reading iterations, analysis, and validation of data” (Sin, 2010, p. 311). In a phenomenographic paradigm, the variations of meaning are titled categories of description, and a limited number is usually revealed in the analysis of the data (Bowden, 2005). Analysis was done to determine if associations between the description categories

could be ascertained and if they were connected in an interconnected, hierarchical relationship (Green & Bowden, 2005). Collectively, the various categories of description and their relationships become a set called the outcome space of the phenomenographic study (Akerlind, 2012). In addition, the outcome space was analyzed to identify awareness themes of the phenomenon based on commonalities and variation between the categories (Akerlind, 2005c). Several phenomenographic studies consistently have demonstrated the findings of limited numbers of description categories, hierarchically connected to each other in the outcome space of individual studies (Cope, 2004).

In the phenomenographic approach, the participants are treated as a group, and the goal of the data analysis is to identify variations in the phenomenon across the group, not between individual participants in the group. Critical to this approach is the construct that empirical analysis must drive the determination of any categories of information and not reflective processes used in other types of qualitative approaches, such as phenomenology (Akerlind, 2005b).

Phenomenographic guidelines described by Akerlind (2012) were used to frame the data analysis of the study:

1. focusing on the referential (meaning) or structural components of the categories of description;
2. focusing on the “how or “what” aspects of the phenomenon;
3. focusing on similarities and differences within and between categories and transcripts associated with particular categories;
4. focusing on borderline transcripts and those transcripts in which there are aspects that do not fit the proposed categories of description; and

5. looking for implications for all the categories of description of a change in any one category. (Akerlind, 2012, p. 122)

In a phenomenographic analysis, the most widely used approach is discovery. In this approach, the categories of description flow from the data and are not prearranged before analysis (Akerlind, 2012). The description categories are separate from the researcher and evolve from the data (Limberg, 2008).

A second paradigm for phenomenographic analysis, delineated by Walsh (2000), is construction. In this approach, Walsh asserted that the researcher draws upon a theoretical framework to develop categories of description to guide the analysis of the data. Walsh stated,

The researcher then draws on his or her particular perspective to describe the relationship the interviewee has to the phenomenon: the researcher's perspective influences the categories "in" the data. A process of construction implies that the researcher follows certain procedures, observes certain principles, and has a sense of control over the data; and that where the data conflicts with the expert's or the researcher's preferred framework, the framework, rather than the data, will take precedence in developing a description. (p. 20-21)

One of the central research questions in the study was to determine if Rogers's (2003) perceived attributes of innovation theory could be used to explain the variations of perceptions of law school deans towards DE; therefore, its five constructs were used as the categories of description in the analysis of the interview transcripts. Correlations of the variation in perceptions by law school deans to the perceived attributes theory provided a better understanding of potential barriers to the adoption of DE in ABA-

accredited legal education as well as provided ideas for minimizing those barriers.

Ethical Considerations

The study maintained strict ethical considerations that are the norm in qualitative studies. These included upholding of autonomy, minimizing injuries, and safeguarding privacy of all participants in the study (Traianou, 2014). All the researcher's university IRB directives, mandates, and protocols related to participant ethical considerations were adhered to in the study. As indicated by Sin (2010), as part of participant confidentiality, all participants in the study were given pseudonyms. In addition, all participants signed informed consent forms verifying the parameters of the study and their voluntary participation in the study. Also, all data and participant information were kept in secured, password-protected computers and software (Sin, 2010). The study did not seek to determine any specific plans of a university in implementing DE programs or courses. The focus of the study was to explore and understand the conceptions, experiences, and understandings of law school deans towards DE as an educational model, within the realm of legal education accredited by the ABA.

Trustworthiness

The nature of qualitative research, such as in-depth and personal discussions with participants and small sample size as opposed to large random samples, precludes using traditional quantitative tools for addressing validity and reliability issues (Marshall & Rossman, 2016). In quantitative studies, the focus is on addressing validity and reliability of the research instrument (Creswell, 2008). However, in qualitative research, the researcher is the research instrument (Marshall & Rossman, 2016). In addition, the phenomenographic approach presents some unique challenges, because transcripts in the

study are considered part of a set and analyzed as a set, not in isolation (Akerlind, 2012). Consequently, participants in phenomenographic study do not normally review their transcripts for accuracy and validity checking (Akerlind et al., 2005).

Validity. Validity focuses on establishing whether a variable is truly determined by the data collection research instrument (Creswell, 2008). Some alternatives suggested to address validity issues in qualitative studies include using the credibility of the researcher as the focus of validity in the research study (King & Horrocks, 2010). In phenomenographic research, Akerlind et al. (2005) argued that outcomes validity can be achieved if the focus is on establishing rigor in all aspects of the phenomenographic research process. In this study, outcomes validity was established by following Akerlind et al.'s (2005) recommendations for rigor throughout every phase of the phenomenographic research:

- consistent interview frameworks with no leading questions except for the planned interventions;
- delay in labeling categories and in looking at relations between categories until analysis of the categories is complete;
- using the transcripts as the only source of evidence; and
- focusing on meaning by taking the “whole of transcript” approach. (pp. 89-90)

As the researcher was working alone in the study, several strategies were used to provide an unbiased approach to maintain rigor of the study. They included breaking the analysis into chunks, with extensive breaks from analysis to keep an open mind towards the research. In addition, when cross-checking transcript data with preliminary outcomes, deliberate and vigorous attempts were made to contrast supporting illustrations with

adverse illustrations (Akerlind et al., 2005).

The use of the intentional-expressive approach in the interviews provided additional support for ensuring valid data. This approach allowed for detailed and systematic collaboration and elucidation of the conceptual meanings provided by the participants in the study (Sin, 2010).

Reliability. Reliability focuses on the degree to which the results of the research can be replicated (Creswell, 2008). Some phenomenographic researchers have argued that the nature of discovery in phenomenographic research through the development of outcome space necessitates no need for replication (Sin, 2010). Other researchers have focused on reliability of the interpretative analysis of the data as appropriate in phenomenographic research for dealing with issues of reliability (Bowden, 2000).

Barnacle (2005) stated, “The reliability of phenomenographic analysis is ensured through the researcher engaging in an iterative dialogue with the text and not predicting outcomes in advance by imposing categories of description” (p. 49). This includes making notes immediately after all interviews, identifying key contextual structures, and listening to interview recordings numerous times before and after the interview transcriptions (Sin, 2010). Techniques to promote reliability also include keeping detailed documentation and explanations of the interpretive research process to enable the reader to evaluate the research procedures and reliability results (Sin, 2010). The interpretative analysis reliability process was used as a guide in the study to increase its reliability.

Potential Research Bias

The researcher in the study has been a strong proponent of DE as a mainstream educational model for many years. After numerous courses and research of the topic, the

researcher is a strong advocate in arguing about the benefits that DE offers to many people unable to quit work to attend college full time. He supports the notion that research overwhelmingly has indicated that student achievement outcomes in DE are equal to those of students attending face-to-face classes.

Several strategies are available in phenomenographical research and were used in the study to reduce and minimize potential research bias. One method was not to attempt to determine the structure or outcome space of the analysis until an exhaustive analysis had been conducted on all transcripts (Akerlind et al., 2005). Second, during the interview stage, the researcher bracketed or suspended any presuppositions about the phenomenon being investigated (Bowden, 2005).

Chapter Summary

A qualitative study was conducted using the phenomenographical research approach seeking to discover law school deans' variation in conceptions about DE. Three law school deans were interviewed as pilot interviews. Nineteen law school deans were interviewed for the main body of research. This chapter highlighted the data collection tools used and procedures followed. A data sample framework was developed with four constructs of sample universe, sample size, sample strategy, and sample sourcing. Data analysis included detailed analysis of verbatim transcripts of all interviews utilizing the construction approach. The constructs of Rogers's (2003) perceived attributes theory were used as the categories of description in the analysis of the law school deans' interview transcripts. Finally, issues of trustworthiness, validity, reliability, and limitations in the study were detailed.

Chapter 4: Findings

The aim of this phenomenographic qualitative study was to identify, describe, and understand law school deans' variation of conceptions towards DE as an educational model within the ABA-accredited law school. Additionally, the researcher determined whether the variations of perception could be described by Rogers's (2003) perceived attributes of innovation theory.

Overview of Participants

Nineteen law school deans were interviewed representing ABA-accredited law schools from every region of the country, including the Northeast, South, Midwest, and West. Five deans were female, and all but one dean were White. All deans have teaching experience in their professional careers and all are still teaching one or law more courses as part of their responsibilities as law school deans. Several deans had previous experience in the private sector before becoming a law school professor.

Research Questions

Two central questions and three subquestions guided the study. The two central research questions were Research Questions 1 and 2. Additionally, three subquestions were developed, Research Subquestions 3–5.

1. What are variations in law school deans' conceptions of DE?
2. How does Rogers's perceived attributes theory elucidate law school deans' conceptions of DE?
3. Do law school deans' conceptions of DE reflect an accurate understanding of its essential elements?
4. How do law school deans form their understanding of DE?

5. How do law school deans perceive DE as an educational tool?

Phenomenographic Approach

The data analysis used the phenomenographic construction approach in developing categories of description (Walsh, 2000). To answer Research Question 2, Rogers's (2003) perceived attributes of theory constructs of relative advantage, compatibility, complexity, trialability, and observability were used as the categories of description. This framework was used to analyze the set of law school deans' transcripts to determine their variation in perceptions of DE, to answer Research Question 1. The constructs of Rogers's perceived attributes of innovation theory were confirmed as the outcome space signifying the different ways law school deans perceived the phenomenon of interest, DE as an educational model.

Employing the phenomenographical method of analysis, the transcripts were analyzed as a set looking for variations between and across the transcripts. The goal, as recommended by Akerlind et al. (2005), was to develop interpretations "based on the interviews as a holistic group, not a series of individual interviews" (p. 76). An extensive iterative analysis of the transcripts determined that variation in law school deans' identification, description, and understanding of DE could be explained under the theoretical framework of Rogers's (2003) perceived attributes of innovation theory, which was the goal of Research Question 2.

Results for Central Research Questions 1 and 2

Following phenomenographic data presentation methods, each category of the perceived attributes of innovation theory is described below, with its essential elements delineated. Next, germane excerpts from law school deans' interview transcripts are

detailed to illustrate and highlight each category (Akerlind, 2005b).

Relative advantage. Rogers (2003) defined relative advantage as “the degree to which an innovation is perceived as being better than the idea it supersedes” (p. 229). Key elements in this category include “economic advantage, social prestige, convenience, or satisfaction” (Robinson, 2009, p. 1). This category has a positive relationship to adoption of a perceived innovation (Musa, Ezra, & Monsurat, 2015). Interview excerpt responses illustrated school deans’ perceptions of relative advantage.

Positive perceptions: Richer, broader base. Dean A described “the opportunity to have a richer curriculum” by enabling the use of professors who “might not be available in a traditional in-person format, and also because we are able to get a cohort of students to make a class viable. . . . That adds depth, I think, to the curriculum.” Dean H echoed Dean A’s observation of a broader faculty and student base:

It can help us in two ways. It can help us engage a broader audience of students who can enrich the discussion of the students in the classroom that way. It can also allow us to attract a broader base of faculty and provide a wider range of expertise. (Dean H)

Dean D stated,

[DE] adds value because you don’t have to invest so much in bricks and mortar. The other way in which it adds value is it can add to the flexibility of the student for scheduling and the faculty member for scheduling and teaching.

Dean F stated,

It’s essential to reach a student body that we cannot reach through face-to-face education, and it is highly valued by the students . . . to give them additional

flexibility in their lives, and their ability to work while going to school. So our JD students want more of those classes. And our [master's] program is entirely online, because it's the only that we can provide a program for them.

Dean N stated, "So it seems to me that it can be of extraordinarily high quality and a great tool for reaching unserved populations." Dean O stated,

I think that this holds great promise to provide access to education to those who otherwise might not get it. I think it has significant potential to reduce the cost of the delivery and also the acquisition of education.

Positive perceptions: Student engagement. Dean B commented on the need for participation in a DE course:

In your typical law school class, if you don't want to be engaged, you can kind of—if not physically, at least emotionally—sit in the back of the class and hang out. And if you're in a distance education course, you really have to participate and be engaged. I think it's a pretty effective form of education. . . . I think it can be very equally or more effective than traditional classroom education.

Dean D responded similarly:

[DE] absolutely prevents students from sitting in the back row and not participating. You can require their participation through posts or through submissions. You can then respond to their post or submission and share it with the entire class. If taught properly, at least under this construct, the student has to be involved and has to be involved in writing, which forces him or her to have to think through what they are going to say in the post.

Dean D concluded, "I think that you can use the technology very powerfully to engage

the students and engage the class.” Dean L explained,

It allowed them to engage in material and it also allowed them to go back over the material in a way that when it’s live . . . they can’t go back over the material to reinforce their learning. It also allowed me to put more formative assessments in there and to gauge student learning through tracking the formative assessments as well as identify statistics on how much time they were spending on different things, how many times they watched the podcast of the slides and lectures. I felt like there was a way in which I was seeing learning habits and behaviors that I just don’t see in a live class.

Dean S stated,

So, I’m a distance education . . . adopter myself. I’m teaching a class who are master’s students that is wholly online. I think that there are tremendous opportunities to not just reduce the price of education but, if done well, to deliver as good if not a better educational experience for students. So I guess I’d say I’m favorably inclined towards some use of distance education.

Negative perceptions. Interview excerpt responses also illuminated law school deans’ negative perceptions related to relative advantage.

I’m very skeptical about its value. It is inferior to in-person instruction. And these feelings come from my experience as a teacher, which makes me think that it’s not a good way to deliver effectively good instruction. (Dean E)

Dean P stated,

I think a fully online JD program would be inferior to what we currently offer. I do think you lose something if you move to a completely online JD program.

Certain kinds of skills that are acquired in legal education are not easily taught in a distance environment—client interviewing, factual investigation, oral advocacy are just a few examples.

Blended model. Several interview questions sought to determine law school deans' perceptions towards the blended or hybrid model of DE. Interview excerpts illustrated relative advantage perceived by law school deans toward the blended or hybrid model.

Geographically, we'd be able to reach more people. I think rather than repeat myself, I'll add a new spin to this. The new spin is this: There are all sorts of people out there who would benefit from having a JD or from having a legal education. But they don't necessarily want to be lawyers, but educators, human resource people, business people. A distance program that was accredited or a hybrid program would allow them to be able to get that degree. Those types of students will have a profound impact upon the institution itself, because the nature of its placement office as career services will change. The nature of the learning styles of people will impact the way that we deliver the courses; the perspectives will be broader. I think overall, it could have a really interesting positive effect of making law even more interdisciplinary and a legal education more broadly available than it currently is. (Dean D)

Dean F stated,

[The hybrid model] has additional flexibility. We're continuing to use the preapproved hybrid model in more and more classes and to eventually look at whether that makes sense to seek the kind of variance that Mitchell Hamline has.

It would enable us to expand our geographic footprints for the part-time students and to provide additional flexibility for the heavy commuting traffic . . . So, being able to do more work through technological mediation would help with some of that, so there's a natural evolution towards that as they service our students. So long as we have enough time with our students to create that environment that I talked about earlier, we can continue to expand the hybrid model.

Dean H explained,

I think that it is becoming increasingly difficult for working professionals to really take advantage of a part-time legal education program that's exclusively traditional classroom. So I think if we have hybrid, I think that would help open up part-time legal education to a wider audience of people.

Compatibility. Rogers (2003) postulated, "Compatibility is the degree to which an innovation is perceived as consistent with the existing values, past experiences, and needs of potential adopters" (p. 240). Compatibility also has a positive correlation to adoption of a perceived innovation. Sahin (2006) maintained, "If an innovation is compatible with an individual's needs, then uncertainty will decrease and the rate of adoption of the innovation will increase" (p. 18).

Positive perceptions. Interview excerpt responses elucidated law school deans' positive perceptions of DE related to compatibility. Dean C expressed, "I'm very pro distance education. I've actually taught a lot of clients online. I'm an early adaptor, and as the dean, I think it's going to play a more increasing role as we go forward."

I think one of the things that we've really prided ourselves on here—and one of our points of distinction—is that we really create a community of learners

between the professor and the students, the faculty and the students. I think you can do that in a distance format, but I think it's a little bit more challenging. . . .

One of the limitations is how we could replicate what we think is a fairly intimate experience in a large online setting. (Dean H)

Dean D explained, "I think that you can use the technology very powerfully to engage the students and engage the class. I think there are roadblocks; I'm not sure they're the limitations that people perceive."

Distance education is a great supplement to in-class education. The new forms of distant education are far more sophisticated than they used to be, and we'll figure out over time the way to blend in-class and distant education. . . . It's also a great way for people to learn material on their own when they don't necessarily need to have the information in class. (Dean J)

Dean L stated,

I would say my attitude towards distance education is the same as it is to every other piece of education at this point, which is it's all out there for our responsible use and consideration, and we always need to learn more about what works well under what circumstances and helps us to meet our learning outcomes. I don't have any disposition towards distance learning education as different towards any other piece of or any other aspect of education.

Dean P responded,

If you're asking about the role it can play in legal education, I think it can play a role. We do have some distance learning opportunities, and I think if done the right way and constructed properly, it can be an effective way to deliver legal

education.

Negative perceptions. Interview excerpts detailed law school deans' negative perceptions of compatibility as well. Several deans specifically mentioned the Socratic method.

I think that some, but not all, some students really do benefit from the Socratic classroom experience. . . . Students tell me regularly that they prepare better, they prepare more, when they know they might be called on. I think that a classroom environment done well can really be transformational. (Dean S)

Dean C explained, "It's very hard to do Socratic method, and that's what we're used to, it's how we normally teach. So it's difficult to recreate that experience online."

I mean, traditionally, law school has been taught through the Socratic method, question and answer with students. That is easiest and most conventionally given live and in person—a little more difficult, although not impossible, to do it through technology and the like. But I think probably the biggest constraint is it being contrary to the normal way things are done at law school. (Dean I)

Dean K stated,

I'm not sure that students learn legal analysis as effectively through some sort of remote transmission of information, as opposed to being in a classroom, where the professor has an opportunity to ask questions, and students have an opportunity to ask questions to the professor in real time.

Dean C stated,

Law professors are not as comfortable as our colleagues across the campus who've done it longer than we have. So, I've seen probably, maybe 20% of my

faculty is really interested in doing it. Other faculty members are strongly opposed to it, think that it's not useful in the education.

Dean E responded,

The instructor is not physically present with the students, and as a result, an enormous amount of information is lost. Information about how the students are receiving the instruction, information about how they're processing it, how well they're understanding it, really kind of evaporates. From the students' point of view . . . by being unable to communicate with the instructor through all the methods of communication that are available in person, the student loses the ability to have an instructor who is highly attuned to and responsive to their needs.

Dean G stated the engaged process of teaching analysis was “a difficult thing to do in the distance environment” and expressed skepticism of the online format.

I'm not too sure that even when the teaching is synchronous, [students] get the same impact that they would out of a classroom. I think it's pretty difficult to, online, imitate all of the dynamics of a classroom. I think some of that is lost in translation. I think . . . the biggest [limitation] is that you miss some of the richness of the classroom exchanges. I think back to the number of times I've taught courses where it becomes clear the student I'm talking to or the question asked, that they haven't caught on at all to what I've been saying. Or worse, they've got a fundamentally mistaken notion of something, and it's time to go back and do some repair work. I don't know if you get quite the same degree of interaction online. (Dean M)

Dean J stated, “Sometimes it’s difficult for professors to engage students who are online, and it’s also difficult to impact skills, learning skills, whether it’s empathy, or good speaking skills, or other things. Some of those are very difficult to do online.”

I think a major limitation of distance learning in the law school environment is that one of the most important ways of law students learn is from each other. And so, when you’re not all situated together, studying and sharing ideas, I think that’s a big loss, and I think that that’s going to be very hard to replicate. (Dean O)

Blended approach. Several interview questions sought to determine law school deans’ perceptions of the blended or hybrid approach to DE. Interview excerpts highlighted perceptions under the category of compatibility.

I think the students have really liked it, and the faculty feel like they can do so much more meaningful work in the classroom if they can get the basic core knowledge before they come in. . . . The faculty member’s real expertise is getting the students to work with hypotheticals and problems and being able to apply what they’ve learned. So, I think that hybrid model has a lot of benefits that we have not taken advantage of, and my young professors especially are doing that, and I think it’s a great way to teach. (Dean C)

Dean A responded, “I think it [the blended model] would be more workable in that you would still have the students here for some of the professionalism and enrichment things that I talked about earlier.”

I think that we’re going to have to look at some of those things, because I think—and we certainly can’t compromise the mission of the law school—but we have to figure out how some kind of distance learning hybrid or whatever it is satisfies the

educational mission well, makes it easier to have access to legal education. So I think that kind of creative approach is something that law schools probably should be looking into. (Dean I)

Dean Q stated, “I think it’s a really creative, good way to go. I like the blend a lot.” Dean L stated the hybrid model would help maintain necessary student interaction. Dean S stated, “I think it would reduce the cost. I think for certain subjects and for certain people, it could enhance the educational experience.”

Complexity. Rogers (2003) stated that complexity is “the degree to which an innovation is perceived as relatively difficult to understand and use” (p. 257). Complexity has an inverse correlation to an innovation’s adoption rate (Rogers, 2003). Robinson (2009) explained, “New ideas that are simpler to understand are adopted more rapidly than innovations that require the adopter to develop new skills and understandings” (p. 2). Interview excerpts highlighted law school deans’ perceptions of complexity.

I think the law professors are not as comfortable as our colleagues across the campus who’ve done it longer than we have. So, I’ve seen probably, maybe 20% of my faculty really interested in doing it. Other faculty members are strongly opposed to it, think that it’s not useful in the education. And then you have the middle who don’t have much of an opinion on it but don’t really want to do it themselves. . . . Finding faculty that want to do it, that’s a barrier because you’ve got to get them some training; you can’t just do exactly what you’re doing in your in-person class, you really need to take some training. So, that’s a barrier, just finding time for faculty members to do that and want to take on something extra.

(Dean C)

Dean I observed that using the Socratic method is a

little more difficult, although not impossible, to do it through technology and the like. But I think probably the biggest constraints is one of it being contrary to the normal way things are done at law school. . . . I think the faculty is less enthusiastic about the idea as it requires change to their teaching methodology or the way that they approach the classroom.

Dean M stated,

What I've heard from the people who have done it is that it actually turns out to be more time consuming than a regular course. Corresponding to students' questions turns out to be much more than what you usually get in e-mails from students.

Dean N stated,

People keenly underestimate the expense associated with producing a quality online experience. [Also] associated with the cost is the sheer amount of time that goes into creating good online content, and that makes it difficult for part-time faculty to participate. And even with full-time faculty, you have to worry about, well, what are the compensation metrics even for a full-time faculty member to go into business education? Then there were actually, of course, the ownership issues, who owns the IP associated with this, is it the faculty member or is it the school? If the faculty member leaves, can they take it with them? And then there's the technology, right? And the technology will only, I'm sure, continue to get better, but it's not cheap, and it relies on the students' having some basic level of technology. So the technological challenges are there.

Dean S stated, “I think it would be hard to get faculty to create the courses if they were synchronous and to teach them in real time if they were synchronous.”

Quality distance education requires as much work up front putting your course together and in fact probably more. And then you can't just let it go and have it run the course. There has to be at-the-moment human faculty moderated aspects to have it be fully interactive. And so, my concern is, in an environment where faculty are already working as hard as they can, . . . how we get distance education developed. (Dean R)

Trialability. Rogers (2003) defined trialability as “the degree to which an innovation may be experimented with on a limited basis” (p. 257). Trialability has a positive correlation to adoption of a perceived innovation (Sahin, 2006). As noted by Robinson (2009), “An innovation that is trialable represents less risk to the individual who is considering it” (p. 2). Interview excerpts underscored law school deans’ perceptions of trialability.

We have a couple of courses at the moment, and next year we are going to be launching a master’s LLM program that is going to be largely online. . . . It’s been positive in terms of just adding a little depth and variety to the curriculum and then, with the MJ [Master of Jurisprudence] program and the LLM program that we are going to be offering, I just think it allows us to reach a different type of student that we haven’t been able to reach before. (Dean A)

Dean D stated,

Our university is looking at how the university might add distance programs.

There are obviously vendors out there who would like us to partner with them to

do some distance stuff, and whether we will do our own, or whether we'll say no as a faculty, or whether we'll move forward and work with someone else, time will tell.

Dean N stated, "We have the online business fundamentals course for JDs. We will be launching the certificate and financial service compliance hopefully as a prelude to a full online LLM in banking and financial law."

We started two [DE] programs relatively recently . . . one in financial markets compliance, the other in intellectual property management. I was with the teams as they figured out . . . how to build the modules, how to staff the modules, what kind of technology company to use, and all those kinds of decisions. (Dean J)

Dean R responded,

We're starting with LLM and legal English and things that are not directly part of the JD degree, because I think we feel like we need to see it, feel it, see how it works with our conceptions of what high-quality teaching and learning are. And then make those assessments with regards to the JD program after enough of the faculty and the people involved in the planning have a better handle on it.

Observability. Rogers (2003) defined observability as "the degree to which the results of an innovation are visible to others" (p. 258). Observability, as with relative advantage, compatibility, and trialability, has a positive correlation with an innovation's adoption rate. Robinson (2009) explained,

The easier it is for individuals to see the results of an innovation, the more likely they are to adopt it. Visible results lower uncertainty and also stimulate peer discussion of a new idea, as friends and neighbors of an adopter often request

information about it. (p. 2)

Interview excerpts illustrated law school deans' perceptions of observability.

Dean C explained,

I think students really like it because it gives them more flexibility. So, especially during the summer, they can still work or they don't have to commute in to school, so they like it. And the reviews I've seen with the student evaluations, they seem very positive that they have learned and that it's been successful, and I think the professors have also ranked it favorably.

Dean F responded,

Undoubtedly, as more and more faculty become comfortable with it, the flexibility of having the right subject taught in the right modality is increasingly being utilized by faculty. We have a lot of faculty [who] are very comfortable with creating self-directed learning modules for our students, and I'm a big fan of self-directive learning. So adding some synchronized opportunities for students and building that into the course time makes a lot of sense as well.

Dean L added,

But then there is also the negotiation and conflict resolution department, which has a completely online master's degree . . . in negotiation and conflict resolution. My sense is that the development has gone quite well. The graduates and alumni who have been in that program [think] it's an important program. The learning is significant. The alumni who have actually come back . . . said it's a phenomenal program.

Dean N observed,

It gives the students an opportunity to review material in a way that they can't or that we generally don't allow in the residential classroom, although I will say that we're doing a lot more electronic capture, even in the residential classrooms, so the students have an opportunity at night to go back to a part of a lecture that they didn't understand. So that's a basic level, you know, enhance understanding of the material. The second thing is . . . it lets us reach those who wouldn't otherwise be able to take advantage of these opportunities. So, for example, the domestic market for LL.M.s find it difficult to attend a program full time, to uproot their lives and move to a city. And having it online . . . enabled them to obtain a credential that they otherwise would not have been able to get. In terms of the JD program, I think it's been great to have Introduction to Business Fundamentals [course] online to give our students basic business knowledge.

Results for Research Subquestion 3

Research Subquestion 3 of the study asked if law school deans' conceptions of DE reflect an accurate understanding of its essential elements. This question was best illustrated by the law school deans' answers to Interview Question 1. This interview question asked each law school dean to define DE. Law school deans gave various details concerning a definition of DE that indicated an understanding of the core elements of DE.

I would define distance education across a spectrum. The spectrum would go from any sort of use of technology to enhance the traditional education experience. It could be at its most rudimentary a course management system. It could be flipping the classroom using materials, either prerecorded or other materials, in conjunction with a class. It could be a hybrid, where a significant

portion of the material was delivered via either recordings or web-based content other than recording. (Dean D)

Dean G defined DE as “where the student receiving the information has a different location than the instructor delivering the information.” Dean I responded, “I would define distance education primarily as using technology to allow students who aren’t on site to receive courses and knowledge.” Dean P stated, “I would define it as any method of acquiring some form of education remotely.” Dean R responded, “I think of distance education as education delivered over some form of Internet computerized system. There can be by synchronization, so there’s a variety of different opportunities.” Dean S explained, “I would define distance education as the delivery of information or the exchange of information between individuals who are not physically located in the same place and may not be exchanging that information in real time.”

Results for Research Subquestion 4

Research Subquestion 4 sought to determine how law school deans form their understandings of DE. Interview Question 4 asked law school deans to discuss their personal experiences with DE. Law school deans who had personal experience, as either a student or professor in a DE course, had a better and more positive understanding towards the usefulness and value of DE. Law school deans who indicated negative perceptions towards DE had no personal experience with DE either as a student or professor.

Results for Research Subquestion 5

Research Subquestion 5 asked how law school deans perceive DE as an educational tool. Rogers’s (2003) constructs of relative advantage and compatibility were

utilized as categories of description in the study. The variation in responses in these two categories indicated positive and negative perceptions toward use of DE as an educational tool.

[DE] forces you to really think about your student learning outcomes and how you access those and different class activities you're going to do. And so, it really makes you much more intentional. I think I used what I learned from the online experience back in the in-person classroom. So, it made me a much better teacher. Then I think, as a student, it's very hard to have an online classroom, because you're forced to make certain posts and do certain things. I actually think in some ways there might be more engagement in an online environment than even in your in-class sessions because of that. (Dean C)

Dean N stated,

So definitely [DE] gives the students an opportunity to review material in a way that they can't or that we generally don't allow in the residential classroom. . . . Students have an opportunity at night to go back to a part of a lecture that they didn't understand . . . [to] enhance understanding of the material.

Dean Q indicated,

It allows students to not have to be physically present on a law school campus, which can be an advantage. It may just generally increase access, may be a more efficient way for a lot of students to take some or a substantial part of their legal education in a more convenient way. . . . If it's done well, it could, it might even have a better quality than traditional [instruction].

Some interview excerpts highlighted negative perceptions by law school deans

towards DE as an educational tool. Dean G explained, “I think it’s a lot more difficult to teach the analytical or higher order thinking skills without the instantaneous interchange.” Dean K indicated “concern that distance education may not sufficiently teach students about legal analysis.” Dean M expressed skepticism that “even when teaching is synchronistic, [students] get the same impact that they would out of a classroom. I think it’s pretty difficult to, online, imitate all of the dynamics of a classroom.”

Chapter Summary

This chapter presented data related to the purpose of the qualitative study, which was to describe, explore, and understand law school deans’ variation in perceptions of DE as an educational model within the ABA-accredited law school. The qualitative method employed in this study was the phenomenographical approach. Utilizing the construction approach in phenomenographical analysis, the theoretical framework that guided the determination of categories of description in this study included the five constructs of Rogers’s (2003) perceived attributes of innovation theory. The findings detailed in this chapter highlighted variations in law school deans’ perceptions of DE. These variations could be explained in terms of relative advantage, compatibility, complexity, trialability, and observability. The two main research questions and three subquestions were answered in this chapter. Interviews of the law school deans revealed a variation in perception of the use of DE as an educational tool.

Chapter 5: Discussion

This chapter discusses the findings of the phenomenographical study, which focused on law school deans' variations in perceptions of DE in ABA-accredited law schools. The chapter is segmented into (a) an overview of the study, (b) the goal of phenomenography, (c) interpretation of the findings, (d) contributions to the literature, (e) limitations, (f) recommendations for future research, and (g) a chapter summary.

Overview of the Study

The purpose of this qualitative study was to identify, describe, and understand ABA-accredited law school deans' variations of perceptions toward DE as an educational model. The qualitative approach employed was phenomenography, which is used to determine variations in perceptions of a phenomenon within a participant group. Within the phenomenographical framework, perceptions are termed *conceptions*. Rogers's (2003) perceived attributes of theory was the theoretical framework for the research. Two central questions guided the study (Research Questions 1 and 2), supported by three subquestions (Research Subquestions 3–5).

1. What are variations in law school deans' conceptions of DE?
 2. How does Rogers's perceived attributes theory elucidate law school deans' conceptions of DE?
 3. Do law school deans' conceptions of DE reflect an accurate understanding of its essential elements?
 4. How do law school deans form their understanding of DE?
 5. How do law school deans perceive DE as an educational tool?
- DE has become an accepted educational model within the postsecondary

environment. Adoption has been fueled by the technological development of the personal computer and creation and growth of the Internet and web (Casey, 2008; Rickman & Wiedmaier, 2011). The growth of technology has offered mainstream, traditional colleges and universities the capability to expand educational offerings through DE, allowing these institutions to keep market share in a growing, competitive educational market (Benta et al., 2015). The impact of DE on higher education includes (a) prominent institutions offering online education, (b) proliferation of education over the Internet, (c) growth of scholarly writing via the Internet, and (d) a rise in marketing online education (Caruth & Caruth, 2013).

In addition, as Allen et al. (2016) observed, DE student enrollments “continue to grow at a healthy rate” (p. 13), even while overall enrollment in both public and private colleges and universities continues to decline. Allen et al. stated, “Many institutions are continuing to add distance education programs and grow existing ones even while campus-based enrollments are declining” (p. 13).

The ABE-accredited law school has been slow to accept the DE model, at least for programs of study leading to a JD law degree. One of the chief barriers is the ABA’s restrictive standards on DE. Standard 306: Distance Education, first published in 2002, limited students taking DE courses to 12 credits, and only after the 1st year on campus at a law school. As highlighted by Huffman (2015), in 2014, Standard 306 was revised, increasing the credits allowed from 12 to 15 credits. Another change in Standard 306 was to allow the credits to be taken together instead of a four-credit maximum per semester.

Another barrier is the perceived faculty resistance to the DE model, especially among tenured faculty. Since the first Sloan DE study in 2002, every year of the study,

the chief academic officers of colleges and universities have reported only one third of faculty have accepted DE (Allen et al., 2016). Straumsheim et al. (2015) reported that the annual Inside Higher Ed survey indicated that 61% of tenured faculty members either disagreed or strongly disagreed with the statement, “For-credit online courses can achieve student learning outcomes that are at least equivalent to those of in-person courses in the following settings” (p. 11). The latest data on tenure of law school faculty are from the 2013 ABA questionnaire on law school staff, which indicated that 63% of full-time law school professors were tenured (ABA, 2014).

A third barrier is the perception that the Socratic method cannot be effectively implemented in the DE setting. Huffman (2015) highlighted the many problems perceived within the law school community on the limitations of DE in using the Socratic method, as students and teacher are removed and not in the same room.

At the center in the discussion of the DE model in the ABA-accredited law school is the law school dean, who, compared to other school deans, is extensively involved in the day-to-day running of the school. The law school dean must manage a myriad of tasks and responsibilities involving the stakeholders of the law school (Alexander, 2015; Fitts, 2010). As deans are the key opinion leaders within law schools, identifying, exploring, and describing the deans’ perceptions towards the DE model are critical for its acceptance within ABA-accredited legal education.

Goal of Phenomenography

The goal of the phenomenographical paradigm is to determine people’s variations of perceptions, understanding, conceptualization, and experiences related to any phenomenon (Marton, 1994). A construct of the phenomenographical approach is that a

limited number of variations can be identified, called categories of description (Akerlind, 2012). A one-time semistructured interview is the chief method to gather data, with a verbatim transcript of the interview the central point of analysis (Akerlind, 2012; Bowden, 2000; Larsson & Holmstrom, 2007).

Two methods of analysis can be used in phenomenography. One is the discovery method, where the categories of description are identified in the data analysis (Akerlind, 2012). The other method is construction, where the researcher utilizes a theoretical lens to create categories of description, which then become the framework to analyze the data (Walsh, 2000).

Interpretation of the Findings

Research Question 1 asked what the variations were in law school deans' conceptions of DE. Research Question 2 asked how Rogers's (2003) perceived attributes theory elucidated law school deans' conceptions of DE. These two questions were answered by utilizing the five constructs of Rogers's perceived attributes theory as the categories of description in analyzing the law school deans' interview transcripts.

Relative advantage. Law school deans' responses evaluated by relative advantage ranged from positive to negative. Positive comments by law school deans about DE included "richer curriculum," "forces more engagement," "student has to be involved," "engage in material," and "better experience." These descriptions by some law school deans of the advantages of DE contradict one of the barriers identified in the literature (Huffman, 2015) concerning the inability of the Socratic method to be delivered in a DE format. Negative comments towards the relative advantage of DE revolved around claims of being "inferior to in-person instruction" and the importance of teaching

certain legal skills in the classroom setting.

In terms of the relative advantage of the blended or hybrid approach, comments focused on being able to reach more potential students, offer more classes, and allow working professionals an opportunity to attend law school. However, deans of law schools not currently offering a blended model indicated no plans to offer a blended or hybrid model.

Compatibility. Many of the positive responses from law school deans assessed by compatibility focused on the use of DE to varying degrees in existing law school programs, including as a “great supplement.” Other positive comments noted that it was not impossible to use technology when employing the Socratic method and that DE has a place in the law school setting. Negative responses categorized by compatibility focused on the incompatibility of a DE approach with many of the current teaching fundamentals, such as the Socratic method and the “engaged process” employed in the law school classroom. Law school deans’ responses that indicated compatibility of the blended or hybrid model focused on the benefits of having students on campus at least part of the time, the perception that a hybrid model would be more workable than a fully online program, and the perception that it could “enhance the educational experience.”

Complexity. Law school deans’ responses analyzed by complexity were varied. They included comments that focused on greater up-front costs for DE than in-class courses, lack of technology support by the college or university, extra time needed to create meaningful lessons, course ownership issues, lack of faculty interest in changing their methods, and inability to find enough faculty willing to teach a DE course.

Trialability. Responses analyzed under the scope of trialability confirmed

literature findings on the growing use of DE in some aspects of a legal education. Some law school deans described starting LLM programs to reach a new kind of student or to use as planning tool to gauge further DE use in the JD program.

Observability. Just as with trialability, law school deans' responses under the auspices of observability reflected a continued acceptance of DE in legal education, at least for some aspects. Deans reported DE gave students more flexibility, particularly in the summer. Further, faculty have become more "comfortable with creating self-directed modules," "alumni have said it's a phenomenal program," and DE improves "understanding of the material."

Research Subquestion 3. This question asked if law school deans' conceptions of DE reflect an accurate understanding of its essential elements. Subquestion 3 was answered based on responses to Interview Question 1, which asked law school deans to define DE. Various definitions provided by law school deans included key terms used to define DE, including *technology*, *hybrid*, *different location*, *remotely*, *Internet*, and "not physically located."

Research Subquestion 4. This question asked how law school deans form their understanding of DE. Law school deans' responses to Interview Question 4, which asked them to describe their experiences with DE, provided an answer. The findings indicated a positive relationship between law school deans' understanding of and positive perception of DE and their personal use of DE, as a student or professor. Those law school deans with no personal experience with DE, either as a student or a professor, tended to have more negative attitudes towards DE.

Research Subquestion 5. This question asked how law school deans perceive DE

as an educational tool. The responses categorized under the perceived attributes of relative advantage and compatibility illustrate law school deans' perceptions towards DE as an educational tool. Those law school deans with a positive perception of DE made comments such "richer curriculum," "additional flexibility," "reduce price of education," "very pro distance education," "very powerful to engage students," "provides working individuals an opportunity," "great supplement," and "it can play a role." Responses by law school deans indicating negative perceptions of DE as an educational tool included, "skeptical about its value," "inferior," "certain skills not easily taught online," "very hard to do Socratic method," "information lost," and "difficult to engage students online."

Contributions to the Literature

There is a dearth of empirical studies on the use of DE as an educational model within the ABA-accredited law school. The literature review in Chapter 2 described several studies that showed the benefits and rationales for the use of DE in legal education (e.g., Bennett, 2014; Hlinak, 2014; Huffman, 2015; Van Detta, 2015). However, as law reviews, those studies focused not on empirical investigation but on anecdotal discussions of the phenomenon. Currently, the only study published is a qualitative study by Jaworowski (2013), which focused on determining whether three law school professors were early adopters or innovators under Rogers's diffusion theory. Her findings confirmed all three professors as innovators. With the lack of empirical studies available, the current study of law school deans' perceptions towards DE in legal education forms a baseline and starting point for discussions for additional empirical studies on the implementation, benefits, barriers, and implications of the DE model in ABA-accredited law schools.

Limitations of the Study

One limitation of the study relates to the phenomenographic dictate to focus solely on the transcript as the centrality of data analysis. This means words must be taken explicitly in the transcripts, which does not allow for inference of meanings in the words. Akerlind et al. (2005) observed, “What people say is not necessarily the same as what they mean” (p. 860). Barnacle (2005) stated, “It is limiting, for example, in that the analysis is restricted to that within the text which is made explicit. Elements of shadow, or aspects of phenomenal experience that are ambiguous and undefined, are not attended to” (p. 54).

As maximum variation sampling was used to identify potential participants in the study, the results cannot be generalized for all law school deans. Because the study contained a single group of law school deans, all variations of conceptions by law school deans towards DE could not be determined. Finally, one cannot be certain that all answers provided by the law school deans were complete or truthful.

Another limitation was that the study was conducted by a single researcher. Thus, there was no way to monitor potential bias of the researcher towards the study or provide a check on conclusions developed from the data analysis, even though every effort was taken by the researcher to bracket his own beliefs and attitudes toward DE. As noted by Akerlind et al. (2005),

In team analysis, agreement between researchers is reached through discussion and mutual critique of the data and of each researcher’s interpretive hypotheses. This provides a way of balancing the perspective of a single researcher and providing a check on the possibility of prejudiced subjectivity. (p. 90)

Recommendations for Future Research

With the scarcity of empirical research on the role, benefits, and usage of the DE model in legal education, several areas can be recommended for future research. A common thread among law school deans was a need for data on which to base decisions concerning DE. Future studies are recommended:

1. Student attitudes toward or success with Socratic discussions could be compared between technology-mediated Socratic discussions and in-class discussions.
2. Student attitudes toward or success with blended or hybrid courses could be compared to attitudes or success with in-person courses.
3. Faculty perceptions could be gathered comparing workloads of DE courses with workloads of blended and in-class courses.
4. Research could determine how much time is critical to creating an effective DE law course.
5. Studies could determine how much training is needed for law school faculty to feel comfortable teaching in the DE model.
6. Another area of recommendation for future research focuses on the use of Rogers's (2003) perceived attributes theory. As indicated by Jaworoski (2013), most research involving Rogers's theories has been quantitative. Future qualitative studies or mixed method studies utilizing his theories would provide richer understanding of the innovation-decision process.

Chapter Summary

The aim of this phenomenographical study was to determine law school deans' variations in conceptions towards the use of the DE model in legal education. The

overview of the study included the central questions and subquestions, as well as a discussion of the role of the DE model in legal education. The findings of the research study were discussed in terms of Rogers's (2003) perceived attributes theory constructs of relative advantage, compatibility, complexity, trialability, and observability. Comments for each construct, as well as for research subquestions, were highlighted in a discussion of the findings. Findings of this study suggest law school deans implementing DE can use Rogers's constructs as a framework to help overcome instructor resistance. Providing training in use of technology to facilitate Socratic method discussions, for example, can ensure DE maintains compatibility with law school practices. Training also reduces the issue of complexity in terms of adoption of the DE model. Trialability has been demonstrated by the gradual implementation of master's programs using DE, prior to any adoption of a fully DE model for JD programs. The study has implications as a baseline study for future research. Limitations of the study utilizing the phenomenographic approach were discussed. Finally, recommendations were made for an array of future research topics covering the DE model within legal education.

Conclusion

This study has shown that the DE model is slowly becoming a reality in the ABA-accredited law school. Part of the problem hindering expansion of the DE model is the continued crisis in American law schools. Lawsuits by former students, declining enrollment of students, and continued job losses in legal education still dominate legal education (Achuko, 2013; Tamanaha, 2013b). Yet, many law school deans who questioned its usefulness or qualified their support for DE still indicated its use in legal education would increase. As Dean C reflected,

I just think it's coming. So, anybody that doesn't think so is not really paying attention to what's happening all around us. And we just need to utilize it, especially those of us on a big campus or friends across campus that know how to do this well and adapt it to the unique parts of legal education.

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Appendix A

Selected Examples of Noneducational Phenomenographic Research

Selected Examples of Noneducational Phenomenographic Research

Study	Context of study	Phenomenon	<i>N</i>	Conceptions (C)
Sahadath (2010)	Management	Senior managements' perceptions of conversations impacting organizational change within the corporation	10	C1: Strategically intentional C2: Catalyst for change C3: Mindful awareness C4: Building shared commitment C5: Guiding the change
Duncan (2014)	Management	Expatriate managers' perceptions of their experience as managers	15	C1: Compliance with past practice and maintaining status quo C2: Completing projects and improving project-related processes C3: Advancing the organization
Harding (2013)	Financial	Chartered financial analysts' perceptions of the fiduciary construct		C1: Meeting another's needs before our own C2: Contributing to another investment process C3: Defining a profession C4: Reflecting on actions C5: Seeing the world from the client's perspective C6: Acting morally
Linehan (2014)	Management	Chinese Canadian managers' perceptions of mobility movement into senior leadership roles	34	C1: Marginalized by cultural barriers C2: Integrated in a specialized or professional niche C3: Integrated in a cultural markets niche C4: Assimilated to the organizational environment

Study	Context of study	Phenomenon	N	Conceptions (C)
Bergman (2015)	Art curators	Curators' perceptions of curating contemporary art exhibitions	13	C1: Generating ideas C2: Facilitating the institutional vision and mission C3: Factoring audience into decision making C4: Navigating international and external conflicts
Davies (2015)	Health care	Licensed mental health clinicians' perceptions of their decision making when assessing and diagnosing of pediatric bipolar disorder (PBD)	14	C1: Reticence to diagnose PBD C2: Disagreement on importance to diagnostic criteria C3: Mania may more clearly indicate PBD. C4: Some factors may obfuscate PBD assessment/diagnosis. C5: Processes used to arrive at PBD diagnostic decisions vary. C6: Disagreement on the effect of experience
J. A. Friedman (2015)	Health care	Pregnant patients perceptions' of privacy experience in group health care	15	C1: My privacy: Agency for the self C2: My provider: Protecting my privacy C3: The dynamics of group privacy C4: Benefits of participating in-group health care

Note. Sources: *Leading Change One Conversation at a Time: A Phenomenographic Study of Senior Leadership Conversations* (Doctoral dissertation), by K. C. Sahadath, 2010, retrieved from ProQuest Dissertations & Theses database (3408268); *Expatriate Managers' Conceptions of Their Experience as Managers: A Phenomenographical Study* (Doctoral dissertation), by J. Duncan, 2014, retrieved from ProQuest Dissertations & Theses database (3629440); *Variation in Ways Chartered Financial Analysts Make Meaning of the Fiduciary Construct* (Doctoral dissertation), by J. D. Harding, 2013, retrieved from ProQuest Dissertations & Theses database (3552562); *Intercultural Leadership: Variations in Chinese Canadian Perspectives of Career Mobility Into Senior Leadership Roles* (Doctoral dissertation), by D. R. Linehan, 2014, retrieved from ProQuest Dissertations & Theses database (3655667); *Perspectives, Approaches, and Experiences in Curating Contemporary Art: A Phenomenographic Study* (Doctoral dissertation), by S. Bergman, 2015, retrieved from ProQuest Dissertations & Theses database (3733829); *Decision Making and Pediatric Bipolar Disorder Assessment/Diagnosis: A Phenomenographic Study* (Doctoral dissertation), by K. Davies, 2015, retrieved from ProQuest Dissertations & Theses database (3701179); and *Patient Experience of Privacy While Participating in Group Healthcare: A Phenomenographic Description* (Doctoral dissertation), by J. A. Friedman, 2015, retrieved from ProQuest Dissertations & Theses database (3745590).

Appendix B
Interview Questions

Interview Questions

1. Please describe your background in the legal education field.

2. How would you define distance education?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

3. Could you describe your attitudes toward distance education?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

4. What have your experiences been with distance education?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

5. How do you feel distance education adds value to the learning and teaching mission of your law school?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

6. What do feel are the limitations and/or problems to distance education within the law school environment?

If barriers, how can they be overcome?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

7. Do you feel teachers are a barrier to the implementation of distance education within the law school environment?

If barriers, how can they be overcome?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

8. Currently does your institution offer any distance education courses or programs?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

9. If yes, how do you feel about their impact on the learning and teaching mission of the law school?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

10. What have been some of the problems with your current distance education offerings?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

11. What have been the biggest barriers to implementing your current distance education offerings?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

12. Is your school planning on offering a fully online JD program if the ABA changes its requirements?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

13. How would a fully online JD program impact the learning and teaching mission of your law school?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

14. What do feel are the limitations and/or problems to offering a fully online JD program at your school?

If barriers, how can they be overcome?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

15. Is your school planning on offering a hybrid online program for a JD program if the ABA changes its requirements, similar to what has been approved by the ABA for

the Mitchell Hamline School of Law in St. Paul, Minnesota?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

16. How do you feel about a hybrid online JD program impacting the learning and teaching mission of your law school?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

17. What do feel are the limitations and/or problems to offering a hybrid online JD program at your school?

If barriers, how can they be overcome?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

18. Does your school offer any blended courses for a JD program?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

19. Is your school planning on offering more blended courses for a JD program?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

20. If yes, how do you feel blended courses will impact the learning and teaching mission of your law school?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

21. What do feel are the limitations and/or problems to offering a blended online courses at your school? If barriers, how can they be overcome?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.

22. Any final thoughts or comments concerning the role of distance education in legal education?

Can you explain further? *or* Can you give an example?

What do you mean by that? *or* Why does that happen?

Tell me more about that.